

From: Kym Johnson

Sent: Friday, June 24, 2022 2:38 PM

To: BCDC PublicComment

Subject: Bigger than Baseball

I am writing to urge a vote to remove the Port Priority Use Area designation at Howard Terminal. This will create more jobs, affordable housing, waterfront access, environmental protections and bring a much needed new ballpark for our A's keeping them in Oakland. Thank you for your consideration.
This really is bigger than baseball!

Kym Johnson, Nick Segal and Kirby Johnson Segal
Oakland, California

--

Kym Johnson

From: Barry Kruse
Sent: Friday, June 24, 2022 2:39 PM
To: BCDC PublicComment
Subject: Oakland A's Stadium

I grew up with the A's in Oakland. They're a proud part of the Bay Area community and representative of the fine, hardworking people who live and love the East Bay.

Please approve buildout of the new stadium in Oakland.

From: Richard Eichmann
Sent: Saturday, June 25, 2022 1:06 AM
To: BCDC PublicComment
Subject: Oakland A's Need to Stay in Oakland

The benefits of them staying far outweigh any concerns. They will help improve the environment, build housing, create tax revenue for the Town, and create a ball park that will drive tourism and help revitalize the area.

Keep the Oakland A's in Oakland.

Rick Eichmann

From: Peter Miroyan
Sent: Saturday, June 25, 2022 6:52 AM
To: BCDC PublicComment
Subject: Vote Yes to Remove Howard Terminal from Port Priority Use
San Francisco Bay Conservation and Development Commission
375 Beale St., Suite 510
San Francisco, CA 94105

Dear Commissioners of the Bay Conservation and Development Commission,

As a member of Town Business, an initiative launched by 125+ Oakland business leaders to promote economic and civic progress in Oakland, I am writing in strong support of removing the Port Priority Use Area designation at Howard Terminal at the Port of Oakland. This project is a once-in-a-generation economic development opportunity for the region that will link the waterfront with downtown Oakland.

A new ballpark at the waterfront will generate more than \$7 billion in economic activity for the region and revitalize the Jack London Square District with thriving retail, restaurants, and small businesses. This project will help fix roads, improve pedestrian and rail safety, and build 3,000 units of desperately needed housing. Furthermore, Oakland residents deserve the transformative environmental and community benefits this project will bring. As it currently sits, Howard Terminal is an underutilized industrial site with a history of activities that pollute the West Oakland community. The A's project promises to clean-up this industrial site with private dollars and return public access to the waterfront with over 18 acres of public parks and open greenspace.

As we think about the future use of Oakland's waterfront, it is important to note the Port of Oakland has already determined this site is not needed now or in the future for Port activities. Danny Wan, the Port of Oakland's Executive Director, is on record stating "the use of Howard Terminal for the Oakland A's ballpark, housing and retail will not hurt the operations or business of the Port's shipping partners. The Port of Oakland has also voted unanimously in favor of the A's proposed project, making clear that redevelopment is the better course of action for the Port's long-term viability. Lastly, the A's proposal includes a significant commitment to return 20% of the site area to the Port of Oakland should the Port determine the land is needed to expand the Inner Harbor Basin.

For the reasons stated above, I urge you to approve the removal of Howard Terminal from Port Priority Use at your upcoming meeting on June 30th and stand ready to support the project's success for decades to come.

Respectfully,

Peter Miroyan
Miroyan Brothers

From: Andrew Snow

Sent: Saturday, June 25, 2022 3:56 PM

To: BCDC PublicComment

Subject: Recommendation of the removal of the Port authority use area designation for Howard Terminal

Dear Commissioners of the Bay Conservation and Development Commission,

I write to you both as a resident of Oakland and the owner of The Golden Squirrel on College Avenue, an Oakland restaurant/pub that barely has survived due to the COVID-19 pandemic and is still fighting to make it. My wife and I have chosen to make this our home, I was born and raised here, and she has joined me, moving from the east coast. We are proud of our City and of our local bar/restaurant, but realize the removal of the Port authority use area designation is essential to the Howard terminal Project and the future of Oakland.

I personally know how difficult the last 28 months have been on residents of Oakland and on all the small businesses which are the heart and fabric of Oakland. Add to this, many of our customers who do not live in Oakland have expressed concern about coming to Oakland and to our business. They fear the homeless situation and the rise in smash and grab car break-ins. We also are now surrounded by counties with a lower sales tax. We are forced to be the most expensive with the least services, all while losing our teams, one of the draws for people to come.

I strongly believe that the Howard terminal project is a “golden” opportunity (no pun intended as to my business) for Oakland. It presents a unique economic opportunity to steer Oakland in a new and exciting direction. Yes, there are issues that the city Council would like changed in the term sheet of the A’s, but time is of the essence. Further delay and further insertion of “new issues” by the City will only result in the loss of our last professional sports team. Oakland CAN NOT risk this. The Oakland City Council should approve the Howard terminal Project on July 20 when the non-binding term sheet is before the Council.

Oakland has many struggles, but none of them get better, actually they will all get worse without the A’s in town. We need the revenue, we need the civic pride, we need the draw to the community.

The Howard Terminal proposal will rejuvenate Oakland and make it a destination for tourists and for all of the East Bay. It will benefit every small business – like mine – and uplift the entire city.

Please remove the Port authority use area designation.

Very truly yours,

Andrew Snow
The Golden Squirrel

From: nabeil mohamed

Sent: Saturday, June 25, 2022 10:43 PM

To: Gomez, Grace@BCDC

Cc: Buehmann, Erik@BCDC; Mann, Cory@BCDC; Cohen, Rachel@BCDC; Jewett, Yuriko@BCDC

Subject: Re: BCDC Special Commission Meeting on June 30, 2022 – INITIAL MATERIALS

Please help keep the A's in Oakland. Howard Terminal stadium is the way! Please vote in favor.

Sent from my iPhone

From: Edith Bretado

Sent: Saturday, June 25, 2022 11:46 PM

To: BCDC PublicComment

Subject: Howard Terminal

Dear Commissioners,

I am writing to request that, when voting on whether to remove port priority from the Howard Terminal site you think of two words: but for.

The proposed development by the Oakland Athletics at Howard Terminal will create a massive increase in tax revenues for local government compared with the current tenants at the site. Everything from ticket sales to concessions to parking will be taxable income. However, all of this income will not exist if the development cannot go forward.

The economic benefits of removing port priority at Howard Terminal will hardly be limited to taxable revenues resulting from ballpark operations. The number of annual visitors to the neighborhoods surrounding Howard Terminal, including Jack London Square, will likely rise exponentially after the ballpark and related development are completed. This will, in turn, help to bolster local businesses, and generate still more taxable income in Oakland and Alameda County.

It seems unlikely that another development of this size, scope and potential will come to Oakland in the foreseeable future, especially if the Howard Terminal project is rejected. That will harm Oakland businesses by denying them the increased foot traffic and sales that will come from having a Major League stadium nearby and deprive the city and the East Bay of critically needed tax dollars.

The proposed development at Howard Terminal will have many likely benefits, however, perhaps the most significant is the economic boost that it could provide to private businesses and public coffers in Oakland. Because of the potential to turn the area around Howard Terminal into an economic boon to the region I ask that you vote to remove port priority from Howard Terminal.

I appreciate your time and consideration.

Sincerely,

Edith Bretado

From: Joel Flory

Sent: Sunday, June 26, 2022 12:28 PM

To: BCDC PublicComment

Subject:

Dear BCDC Commissioners,

As a fellow leader, local CEO with a business headquartered in Oakland, and member of Town Business, I wanted to reach out to you and express my support for the Oakland A's waterfront ballpark at Howard Terminal and the removal of the Port Priority Use Area designation. This is a defining moment, not only for the A's but for Oakland as a whole. Growing up just a few blocks from the Coliseum, I've been a fan of the A's and Oakland sports my entire life. But more than that, I'm a fan of Oakland. I love this town. I have built my business here. I'm invested here. Our community deserves to keep the A's and all of the new economic and community activity represented by the ballpark and Coliseum projects.

Oakland needs the A's, and the A's need Oakland.

I urge you all to vote in support of the Howard Terminal Waterfront Ballpark Project and continue to show up to move Oakland forward, not backward.

Joel Flory

Co-Founder & CEO

-

VSCO

From: Craig Cooper

Sent: Sunday, June 26, 2022 1:28 PM

To: BCDC PublicComment

Subject: Oakland Athletics proposal - Yes

Hello,

I would voice my opinion in favor of BPA 2-19. The Oakland Athletics have demonstrated that removing Howard Terminal from Port Priority Use Area designation would not detract from the region's capability to meet the projected growth in cargo, and has demonstrated that the cargo forecast can be met with existing capacity or port capacity elsewhere in the Bay Area.

Sincerely,

Craig Cooper

Oakland, CA

From: Ryan Lester

Sent: Sunday, June 26, 2022 5:11 PM

To: BCDC PublicComment

Subject: June 30th Meeting - Approve Howard Terminal Project

BCDC,

As part of your mandate, you are tasked with protecting the bay, ensuring public access and supporting maritime uses across the bay. Given that the Howard Terminal project protects the bay's ecosystem through environmental remediation of contaminated land and will open up the West Oakland shoreline to millions of visitors a year, I strongly urge you to support the Howard Terminal Project.

The Howard Terminal project will open up West Oakland bay access across dozens of acres of land to millions of visitors a year, land that is currently operating as a parking lot for shipping containers and diesel belching trucks. Additionally, the Howard Terminal project will also fully fund extensive environmental remediation work that is necessary for the preservation of the bay ecosystem. Without the Howard Terminal project, funding for pollutants that will eventually be mobilized from sea-level rise will have to be funded by the Port of Oakland and the City of Oakland; however, funding for this remediation is not guaranteed if the Howard Terminal Project is not approved.

Lastly, just as Zoos and Aquariums are important catalysts for conservation, opening up shoreline for public access at Howard Terminal will be an important access for West Oakland's environmental justice movement by helping more residents in this disinvested community connect with their city's shoreline, which has long been fenced off and inaccessible in this part of the city.

I look forward to your swift approval of the Howard Terminal proposal before you on June 30th.

Respectfully,

Ryan Lester

From: Gregory Kalkanis
Sent: Sunday, June 26, 2022 5:47 PM
To: BCDC PublicComment
Subject: Howard Terminal

From: Gregory Kalkanis
To: Members of the San Francisco Bay Conservation and Development Committee:
Regarding: Howard Terminal's Port Priority Use designation

Dear BCDC Member:

Please vote to retain the Port Priority Use designation for Howard Terminal. I am employed by the Oakland Unified School District as a Teacher Substitute and have witnessed the damage to Oakland Black and Brown families due to gentrification. Families are forced to relocate to communities beyond the Bay Area in order to find housing they can afford. Those families that remain in Oakland pay excessively high rents or mortgage payments so that they are challenged to meet the other needs of their children and themselves. The project proposed by the Oakland A's includes more than three thousand luxury housing units. The project will serve to increase property values in West Oakland and create more hardship for an already marginalized community. The change to the Port Priority Use designation might ultimately lead to challenges to the Port's vitality which would be devastating to working families throughout Northern California.

Your Neighbor,
Gregory Kalkanis

From: Sam East

Sent: Sunday, June 26, 2022 10:16 PM

To: BCDC PublicComment

Subject: BCDC Vote on Howard Terminal Port Priority Use Designation Removal

Hello,

I support the Oakland A's application to remove the port priority use area designation at Howard Terminal.

I became an A's fan when I arrived in Oakland as an immigrant 22 years ago. More importantly I fell in love with the City; it's culture, history and people. I still live in the East Bay and am proud to live in the Bay Area and of the social, leisure and commercial opportunities that being by the Bay affords our various communities.

Although the Port of Oakland has brought enormous financial and employment benefits to the City of Oakland over the years, unfortunately the social and leisure benefits have been more enjoyed by the residents of San Francisco and other parts of the Bay Area.

The development at Howard Terminal is the opportunity to redress that balance. It will bring people, tax dollars and a sense of civic pride and respect that Oakland needs coming out of hard, Covid affected years.

There are obvious challenges and opposition to taking on such an ambitious project - but our City needs ambition and forward thinking projects and initiatives that will still be impactful 30 or 40 years from now.

I hope you will consider this perspective as part of your decision making process.

Thank you,

Sam East

From: Mike Jones
Sent: Monday, June 27, 2022 7:54 AM
To: BCDC PublicComment
Subject: Yes — Howard Terminal Project

Good Day,

Please vote YES to amend the Port Priority Use Area designation at Howard Terminal. Advancing the Ballpark Project and related development (public access to the wonderful waterfront, housing, restaurants & lounges, parks, etc.), improving the access to, and enjoyment of a badly underutilized area near downtown Oakland & Jack London Square will be a huge improvement for Oakland, Alameda County and the entire East Bay.

The Port can, and should coexist with the Ballpark Project, it's a winning improvement for all. Please vote YES, let's get this done!

Thanks for your consideration.

Michael & Michele Jones

Sent from my iPad

From: East Oakland Stadium Alliance
Sent: Monday, June 27, 2022 9:29 AM
To: BCDC PublicComment
Subject: Howard Terminal Briefing

Working Waterfront

In its final report, BCDC staff has recommended the removal of Howard Terminal from Port Priority Use designation, but acknowledges that “By 2050, the Port will be at or near capacity with little or no room for further growth.” Why would the BCDC commission want to leave no margin for error and hamstring the entire region’s cargo capacity on a razor’s edge?

The seaport community strongly disagrees with the staff recommendation. The reality on the ground is that Howard Terminal is as busy and as critical as ever. Congestion remains at an all-time high in the Port of Oakland, and removing Howard Terminal from Port Priority Use could inhibit current and future growth at the Port of Oakland and throughout the Bay region for decades to come.

To validate this growth, one need look no further than the Port of Oakland’s budget which was unveiled at the Port Commission meeting last week. The numbers clearly show that the Port’s 1% growth narrative is a sham only intended to influence the commission. Assuming the Port is being honest with its budget, the BCDC should be considering the impact of removing Howard Terminal under the strong growth scenario which would clearly preclude the removal of any Port Priority Use Property – failure to protect this important piece of maritime land will result in the region being unable to meet its capacity constraints well before 2050.

The Port of Oakland Budget taken up by the Port Commission on June 23, 2022:

- FY 2023 Projected Seaport Growth +2% TEU
- FY 2024 Projected Seaport Growth +5% TEU
- FY 2025 Projected Seaport Growth +5% TEU
- Before moderating to 1% per year in FY 2026 and FY 2027

The additional 46 acres added to the cargo forecast located at the Port of Benicia may change the math on a spreadsheet, but this acreage (which is already near capacity) does nothing to solve the pressing need for additional cargo container and ancillary space in and around Oakland. The Port of Oakland is already constrained due to insufficient ancillary space, and alternative space has not been identified in the EIR or elsewhere.

Need proof? If you visit Howard Terminal today, you will see trucks taking chassis and containers in and out of the gates, with a yard full of cargo containers piled high. Congestion in Oakland is not a problem two decades from now, seaport operators are already struggling to find the acreage necessary to move goods efficiently in and around the port.

The staff recommendation further validates our belief that the Port of Oakland’s future viability is being used as a pawn in a billionaire developer’s scheme. We can never reclaim lost port

capacity and removing acreage will harm the competitiveness of the port, jeopardizing thousands of union jobs in the process.

In Their Own Words

“We must think and act well beyond our lifetimes”

In a 2019 memo John Driscoll, former maritime director at the Port of Oakland, indicated he had “very serious concerns about the A’s project.” Driscoll wrote that “the current conversation about the future of Howard Terminal continues to ignore this core purpose of the seaport, instead focusing on short-term, politically motivated objectives.”

Driscoll continued, “We are a landlord port – our greatest asset is our land. Contrary to the beliefs of some, holding land is a plan, as are resisting short-term pressures and being resilient. These fundamental concepts seem to have been lost, and the difficult decisions that come with protecting them seem to be avoided at all costs by the Port. It is my strong belief we cannot allow this; we must be vigilant throughout the time we are entrusted to manage the Port and its resources.”

There is rare unanimity amongst industry experts and maritime stakeholders within the Port community – and everyone agrees with former Maritime Director Driscoll that it is time to speak up so the public sees the Howard Terminal plan as a short-sighted land grab.

Media Spotlight

Covid-19 Shipping Boom Drives Land Rush Near Ports

Demand surges for lots suitable as container-storage facilities, lifting rents and property values

Konrad Putzier’s article in the Wall Street Journal last week described about how logistics companies and port operators are racing to lease vacant land close to container terminals, driving up rents and property values and spurring more investment in coastal outdoor-storage properties.

“This land rush is the latest example of how a rise in shipping, prompted by strong consumer demand for goods during the Covid-19 pandemic, is shaking up the real-estate sector. E-commerce has already turned warehouses and fulfillment centers into one of the hottest property types. Now vacant lots that can be used to stack loaded containers waiting for rail or truck hookups are experiencing a surge in demand.”

“Logistics companies, squeezed by surging demand and labor shortages, are struggling to get containers away from a port quickly, compounding the problem. Storing empty containers is another problem for ports across the U.S. There are few sites near ports that are large enough and have easy access to roads or rail. Zoning is also a concern: Local rules often restrict heavy

industrial use and make it illegal to stack containers on top of each other. That is driving up rents for those few sites that tick all the boxes.”

You can read the article [here](#).

Community Voices

Hundreds of shipping, trucking, import/export, logistics, ag companies, port workers and community members have raised their voices in opposition to the application by the Oakland Athletics to amend the San Francisco Bay Plan and Seaport Plan to pave the way for the land’s permanent removal as a critical hub for truckers, training, cargo containers, and logistics without the Port identifying alternate locations for these vital services and union jobs.

Guest speaker Ed DeNike spoke to hundreds during the Agriculture Transportation Coalition's 34th Annual Meeting last week in Tacoma, many expressing concern about the Howard Terminal discussion:

"To succeed we need land, and we need Howard Terminal."

– Ed DeNike, President, SSA Marine

Other Seaport Stakeholders Say...

“Howard Terminal is a critical depot yard supported by the USDA to assist exporters and carriers to interchange equipment in high demand. As a 25-acre pop-up site dedicated to filling empty shipping containers with commodities like soybeans, dairy, nuts, fruit, and more, Howard Terminal is now playing a crucial role in ensuring the Port of Oakland’s long-term success and viability, and its capacity to continue operating as a key gear in the movement of agricultural goods throughout Northern California.”

– Melanie Foster, Distribution and Transportation Manager, Sunsweet Growers, Inc.

“Obviously, the answer to our congestion issues is not to remove the property which provides us with more transportation options – this will only make our issues worse and make it harder for us to use the Port of Oakland as our primary export gateway.”

– Jason Dreisbach, President, Dreisbach Enterprises

“We are not against a new stadium, but we are opposed to a ‘build it, and safety will come’ approach that both the City of Oakland and the Oakland A’s have taken in response to our expressed concerns. We are asking the City of Oakland and the Oakland A’s to acknowledge and fully mitigate the very real safety risks that will arise from developing a new entertainment district next to a bustling transportation corridor.”

– Adrian Guerrero, Director of Policy and Partnerships, Union Pacific

“We, as a community, should hold everybody to task around the issue of equity. “The A’s started off talking about equity and ended up putting [all the costs] back on the city. That’s not equity. Unmitigated environmental issues — that’s not equity. I don’t believe they are going to [build affordable] housing — that’s not equity.”

– Margaret Gordon, Co-Founder of West Oakland Environmental Indicators Project

“If approved, the commission will allow Howard Terminal to transform into a playground for a billionaire real estate tycoon. We are Oakland A’s fans, we just want the Oakland A’s to stay where they are currently playing.”

– Trent Willis, International Longshore Warehouse Union Local 10

From: Selya, Eric

Sent: Monday, June 27, 2022 10:53 AM

To: BCDC PublicComment

Subject: Seaport Plan to remove the Port Priority Use Area designation at Howard Terminal

San Francisco Bay Conservation and Development Commission

375 Beale St., Suite 510

San Francisco, CA 94105

Dear Commissioners of the Bay Conservation and Development Commission,

I work for F'real Foods of Emeryville, a division of Rich Products. We have an employee base of 55 that is scattered across bay area communities, many of whom call Oakland home. I personally have lived in San Leandro in the late 1980's and after a move to the east coast, returned to the bay area in 1999 for good.

I am a long-time fan of the Oakland Athletics and strongly support the efforts to keep the A's in Oakland and build a new ballpark in Jack London Square. Like many season ticket holders, my children grew up enjoying MLB baseball in the East Bay. As a member of Town Business, an initiative launched by 125+ Oakland business leaders to promote economic and civic progress in Oakland, I am writing in strong support of removing the Port Priority Use Area designation at Howard Terminal at the Port of Oakland. This project is a once-in-a-generation economic development opportunity for the region that will link the waterfront with downtown Oakland.

A new ballpark at the waterfront will generate more than \$7 billion in economic activity for the region and revitalize the Jack London Square District with thriving retail, restaurants, and small businesses. This project will help fix roads, improve pedestrian and rail safety, and build 3,000 units of desperately needed housing. Furthermore, Oakland residents deserve the transformative environmental and community benefits this project will bring. As it currently sits, Howard Terminal is an underutilized industrial site with a history of activities that pollute the West Oakland community. The A's project promises to clean-up this industrial site with private dollars and return public access to the waterfront with over 18 acres of public parks and open greenspace.

As we think about the future use of Oakland's waterfront, it is important to note the Port of Oakland has already determined this site is not needed now or in the future for Port activities. Danny Wan, the Port of Oakland's Executive Director, is on record stating "the use of Howard Terminal for the Oakland A's ballpark, housing and retail will not hurt the operations or business of the Port's shipping partners. The Port of Oakland has also voted unanimously in favor of the A's proposed project, making clear that redevelopment is the better course of action for the Port's long-term viability. Lastly, the A's proposal includes a significant commitment to return 20% of the site area to the Port of Oakland should the Port determine the land is needed to expand the Inner Harbor Basin.

For the reasons stated above, I urge you to approve the removal of Howard Terminal from Port Priority Use at your upcoming meeting on June 30th and stand ready to support the project's success for decades to come.

Respectfully, Eric

Members of the BCDC:

I am writing you today to oppose Amendment 2-19, and ask that the BCDC support the SPAC and recommendation to keep the Seaport Priority Use designation for Howard Terminal.

As you know, the SPAC has voted to utilize the independent, BCDC-commissioned, and peer-reviewed cargo forecast by the Tioga Group as the basis for determining the future needs for preservation of seaport lands in the Bay. This SPAC-approved study clearly shows that under nearly every future scenario, with the notable exception of extremely low growth, Howard Terminal was needed to meet our future cargo capacity. The Tioga report also found that Howard Terminal was the only available space which could readily accommodate all three types of potential future cargo needs.

The Port of Oakland is not suffering from low growth—in 2021 it set an all-time high record for cargo imports, as did nearly every other major container port in North America. By all indications, the Port is in the strong growth scenario, and Howard Terminal is more essential than ever. Howard Terminal itself actively serves as a lay-berth for vessels, and a critical staging area for nearly 400,000 truck and container moves per year, in addition to offering additional container and intermodal equipment storage.

Port of Oakland Executive Director Danny Wan has called staffs' projections "aggressive" and said his port has seen about a 2% annual growth over the past 20 years, and only about 1% a year over the last decade. However, the Port recently put out a press release touting that its import cargo volume increased 6.3% in February compared to the same month last year. In fact, historical port numbers show that import volume went up 4%-6% annually in four of the last six years.

The State of California's and Port of Oakland's own research shows that we are suffering from a truck parking shortage statewide, and specifically in the urbanized Bay Area, that there is no equivalent acreage available to offset the usage of Howard Terminal at this time.

In addition, Howard Terminal was also recently identified as the site of a partnership between the Port of Oakland and the U.S. Department of Agriculture (USDA) to ease congested ports and supply chain issues through a 25-acre pop-up site dedicated to filling empty shipping containers with commodities like soybeans, dairy, nuts, fruit, and more. This initiative further demonstrates Howard Terminal's crucial role in ensuring the Port of Oakland's long-term success and viability, and its capacity to continue operating as a key gear in the movement of agricultural goods throughout Northern California.

We are now in a period where the supply chain is heavily congested, and every other port in the country is looking to grow, adapt, and maximize land available for key maritime and support functions. BCDC should be looking at ways to increase port land to support maritime operations—not remove it. The Port of Oakland serves as the home for tens of thousands of good, skilled, living-wage jobs, and is the hub of our regional economy. If Howard Terminal is

removed from port priority use it could harm the competitiveness of the port and result in the loss of millions in revenue and thousands of good paying jobs.

I support the recommendation of the SPAC and SPAC staff and consultants who agree that Howard Terminal should not be removed from port priority use.

Thank you for your time and consideration.

Tom Boyle
Matt Schrap

From: David Anderson

Sent: Monday, June 27, 2022 11:14 AM

To: BCDC PublicComment

Subject: Please allow the A's to move to Howard Terminal - Warriors moved to edge of Mission Bay medical center

Please allow the A's to move to Howard Terminal. It would be devastating if Oakland lost all of their sports teams.

The Warriors were allowed to move to the edges of the UCSF medical center in Mission Bay and I haven't heard any negative consequences about people getting to the clinics and hospital.

The city's sports are one of the few positive things known nationally about Oakland. Almost all other news is negative.

Howard Terminal will bring much needed housing and jobs.

David

From: Jason

Sent: Monday, June 27, 2022 11:56 AM

To: BCDC PublicComment

Subject: I support the A's stadium at Howard Terminal

Good Morning,

I live in district 3 of Oakland and I wish to register my support of the A's stadium at Howard Terminal.

-Jason Smith

From: Rolfe Kasling
Sent: Monday, June 27, 2022 12:12 PM
To: BCDC PublicComment
Subject: I support the A's stadium at Howard Terminal

Hello,

I am an Oakland resident, living in the Dimond district and I wish to register my support for the building of a new A's baseball stadium at the Howard Terminal.

Thank you,
Rolfe Kasling
ROLFE KASLING
MIDDLE SCHOOL LIBRARIAN & TECH/MAKER TEACHER
Pronouns: he, him, his

From: Mark Meyer

Sent: Monday, June 27, 2022 12:39 PM

To: BCDC PublicComment

Subject: A's Stadium-application re San Francisco Bay Plan and Seaport Plan

Hello,

I live in Oakland, near downtown. I support of the A's stadium at Howard Terminal and find the staff analysis that Howard Terminal should be removed from the Priority Use Area convincing.

Mark Meyer

From: Andrew Schneiderman

Sent: Monday, June 27, 2022 1:05 PM

To: BCDC PublicComment

Subject: I support the A's stadium at Howard Terminal

Good Morning,

I wish to register my support of the A's stadium at Howard Terminal.

Bright Moments,

Andrew

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From: Ajax Green

Sent: Monday, June 27, 2022 1:57 PM

To: BCDC PublicComment

Subject: I support the A's stadium at Howard Terminal

Hi I live in Oakland (25 years) and would love to have new A's stadium at Howard Terminal.

Thank you!

Ajax Green

From: Ian Baldrige

Sent: Monday, June 27, 2022 4:02 PM

To: BCDC PublicComment

Subject: I support the A's stadium at Howard Terminal

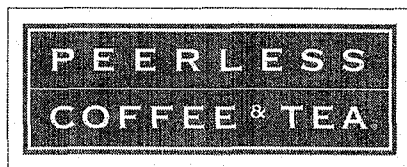
To whom it may concern,

I have been a resident of the east bay (Oakland, Berkeley, El Cerrito, Richmond) for 43 years and I wish to register my support of the A's stadium at Howard Terminal.

I grew up with the Oakland A's and hope to one day bring my kids to the amazing new stadium at Howard Terminal.

Thank you for your time,

-Ian Baldrige



San Francisco Bay Conservation and Development Commission
375 Beale St., Suite 510
San Francisco, CA 94105

Dear Commissioners of the Bay Conservation and Development Commission,

As an owner of a 3rd generation 98 yr old Oakland business (yes 98 years in Oakland!) and a lifelong Oakland A's fan, I am writing in strong support of removing the Port Priority Use Area designation at Howard Terminal at the Port of Oakland. Not only is this project a once-in-a-generation economic development opportunity for the region that will link the waterfront with downtown Oakland, it is also massively important to local businesses and citizens of my town.

A new ballpark at the waterfront will generate more than \$7 billion in economic activity for the region and revitalize the Jack London Square District with thriving retail, restaurants, and small businesses. This project will help fix roads, improve pedestrian and rail safety, and build 3,000 units of desperately needed housing. Furthermore, Oakland residents deserve the transformative environmental and community benefits this project will bring. As it currently sits, Howard Terminal is an underutilized industrial site with a history of activities that pollute the West Oakland community. The A's project promises to clean-up this industrial site with private dollars and return public access to the waterfront with over 18 acres of public parks and open greenspace.

As we think about the future use of Oakland's waterfront, it is important to note the Port of Oakland has already determined this site is not needed now or in the future for Port activities. Danny Wan, the Port of Oakland's Executive Director, is on record stating "the use of Howard Terminal for the Oakland A's ballpark, housing and retail will not hurt the operations or business of the Port's shipping partners. The Port of Oakland has also voted unanimously in favor of the A's proposed project, making clear that redevelopment is the better course of action for the Port's long-term viability. Lastly, the A's proposal includes a significant commitment to return 20% of the site area to the Port of Oakland should the Port determine the land is needed to expand the Inner Harbor Basin.

For the reasons stated above, I urge you to approve the removal of Howard Terminal from Port Priority Use at your upcoming meeting on June 30th and stand ready to support the project's success for decades to come.

Respectfully,

A handwritten signature in black ink, appearing to read "Kristina Brouhard", with a long horizontal flourish extending to the right.

Kristina Brouhard
Owner
Peerless Coffee & Tea

From: steve gregovich

Sent: Monday, June 27, 2022 7:56 PM

To: BCDC PublicComment

Subject: Please support the Oakland Athletics' proposed Bay Plan Amendment

Please support the removal of port use designation for the Howard Terminal location. As a lifelong East Bay resident, I would enjoy the increased public access to the Bay shoreline and love the idea of cleaning up a risky hazardous site using private funds. This project will provide many benefits for local residents, and I urge you to support it. Thank you.

Steven Gregovich
Oakland

From: gemma greenhill
Sent: Monday, June 27, 2022 8:08 PM
To: BCDC PublicComment
Subject: I support the A's stadium at Howard Terminal

Hello,

I live in Oakland and I wish to register my support of the A's stadium at Howard Terminal.

Signed Gemma Greenhill

Go A's!!!!

From: Sara K

Sent: Monday, June 27, 2022 8:12 PM

To: BCDC PublicComment

Subject: I support the A's stadium at Howard Terminal

Hello,

I live in Oakland and I wish to register my support of the A's stadium at Howard Terminal.

Go A's!

Sara Fisher
Oakland, CA 94602

From: Marc Tamo

Sent: Monday, June 27, 2022 8:23 PM

To: BCDC PublicComment

Subject: I support the A's stadium at Howard Terminal

Hello,

I live in Oakland and I wish to register my support of the A's stadium at Howard Terminal.

Thanks

Marc Tamo

From: Kristi McKenney

Date: Monday, June 27, 2022 at 5:58 PM

To: "Buehmann, Erik@BCDC", "Mann, Cory@BCDC", "Fain, Jessica@BCDC"

Cc: Noah Rosen, "Maybrun, Molly", Richard Sinkoff

Subject: Please see information regarding EOSA comments on Port Budget

Please see the attached information regarding the Port's budget. We understand the EOSA PR firm sent emails directly to BCDC Commissioners claiming the Port's recently adopted budget supports higher growth rates. On the contrary, the Port's budget makes the point very clear that the Port has lost so much activity it will take 9 years after the pre-pandemic 2019 high to simply get back to 2019 TEU levels. This will eat up almost 30% of the BCDC Cargo Forecast period of 2019-2050 with a total of 0% increase, requiring 3.2% CAGR (same as "Strong Growth") after 2027-2028 to reach 5.2M TEU in 2050. We plan on emailing this directly to Commissioners tomorrow unless you have any objections. Thank you!

Port of Oakland Supplemental Information to BCDC Commissioners and Staff June 27, 2022

We understand the East Oakland Stadium Alliance public relations firm has sent emails to BCDC Commissioners discussing the Port of Oakland (Port) Fiscal Year (FY) 2023 Budget (Port Budget) adopted by the Board of Port Commissioners on Thursday, June 23, 2022. These emails attempt to convey that the Port Budget suggests a rate of increase for TEUs as strong or stronger than the *2019-2050 BCDC Cargo Forecast for "Moderate Growth Scenario"* (2.2% compound annual growth rate (CAGR) 2019-2050). However, the Port Budget actually demonstrates the exact opposite: ***the Port of Oakland is expected to take eight or more years to fully recover TEU activity from the significant decreases during the COVID-19 pandemic and is not forecast to achieve its FY2019 peak of 2.6M TEUs until FY2027 or after.*** The Port Budget forecasts TEU increases in the next five years only to approach returning to pre-pandemic levels. The Port Budget validates all prior information the Port provided to BCDC Commissioners and Staff that demonstrates that the Moderate Growth Scenario is aggressive at best and likely to provide significant cushion to Port capacity through 2050.

What does the five-year Port Budget say about TEU increases?

The Port adopts its five-year budget annually but also includes a four-year look ahead for planning purposes.

The Maritime forecast in the recently adopted Port Budget includes the following TEU year over year annual increases in the immediate near term:

FY	Projected Total TEUs	% Growth
2023	2,289,453	2
2024	2,403,925	5
2025	2,524,122	5
2026	2,549,363	1
2027	2,574,856	1

These increases merely describe a return to pre-pandemic levels, but do not indicate a growth rate anywhere near what was forecasted in the Moderate Growth Scenario.

The Port has been unusually affected by a downturn in Seaport activity during the pandemic. The Seaport is forecasting to end FY22 at approximately 2.24M TEUs, which is the lowest level since FY2010. Whereas all other major ports have seen increases during the pandemic, some to record high levels, the Port of Oakland's activity level is projected to decrease 8.3% when compared to FY2018 and that equates to an annual

decline of approximately 2.2% from FY18-FY22. The Port's current levels are far below its pre-pandemic peak FY 2019 at 2.59M TEUs.

The recently published Port Budget reflects optimism that the Port will recover from this significant downturn beginning in FY23 and have a short period of higher year over year growth over FY24 and FY25 when much, but not all, of the prior demand returns to Oakland from other ports. The rest of the lost demand is expected to return more slowly in FY26 and FY27. Only sometime after FY27 is the Port expected to start experiencing actual "growth" over its pre-pandemic activity levels.

Even with the recovery to pre-pandemic levels forecasted in the Port Budget, ***the Port will still have a negative (-.1%) compound annual growth rate from June of 2019 to June of 2027.*** Historically:

- **This results in a .58% CAGR from calendar year 2005 - June 2027** (compared to calendar years 2005-2021 of .46%, included in Port materials to BCDC as actuals)
- **This results in a 1.7% CAGR from calendar year 1998- June 2027** (compared to calendar years 1998-2021 of 1.9% included in Port materials to BCDC as actuals)
- Recall that the CAGR from 1998-2005 was 5.38%, this is when most of the growth occurred in the past 24 years and very little growth has occurred since 2005.

As you can see these all demonstrate the same facts the Port has been consistently providing during the BCDC Commission's deliberations on this matter and explain why the Port views the "Moderate Growth Scenario" CAGR in the *2019-2050 BCDC Cargo Forecast* as "aggressive". We hope this gives the Commissioners confidence in the BCDC Staff Final Recommendation and Proposed Findings, that the Port of Oakland will be able to fulfill its mission in serving the region as an important economic engine and doing so without the need for Bay fill.

How does the Port Budget forecast for TEUs compare to the 2019-2050 BCDC Cargo Forecast?

The *2019-2050 BCDC Cargo Forecast* "Moderate Growth Scenario" assumes compound annual average growth rate of 2.2% per year. In the first three years of this forecast (2019, 2020, and 2021), however, the Port actually experienced a -1.3% decrease in activity, the only major Port in the country to experience a net decline overall. If the Port finishes FY22 (ending June 30, 2022) with the expected approximately 2.24M TEUs, then that CAGR will be an even larger negative. This means the Port Budget forecast only returns the Port to pre-pandemic levels in 2027 or after. This also means the first eight years of the Cargo Forecast will have had a 0% CAGR or even negative CAGR instead of the forecast positive 2.2%. Thus, the CAGR will have to be much higher in the remaining years of the forecast to reach the forecasted 5.2M TEUs in 2050.

If the Port is successful at recovering the TEU demand as shown in the Port Budget the remaining years of the BCDC Cargo Forecast will have to be a very high 3.2%, a sustained rate that is unprecedented in modern history at the Port and exactly the CAGR for the BCDC Cargo Forecast “Strong Growth Scenario”. By adopting the “Moderate Growth Scenario”, and given the recent negative growth rates, one is actually assuming a “Strong Growth” CAGR from 2027 to 2050, even assuming the Port’s Budget forecasted increase actually occurs in the next five years.

This is why the Port has continued to encourage the BCDC Commission to consider the Moderate Forecast Scenario as aggressive, with a significant cushion. While the Port is doing all it can and certainly hopes to recover from the pandemic losses in the short-term and expects Seaport activity to increase gradually over time after that, a 3.2% CAGR and 5.2M TEUs in 2050 still appear highly unlikely given the on-the-ground facts.

Port Budget Revenue Projections Do Not Affect Forecast of TEU Volumes

The Port’s maritime revenue budget projections are not directly relevant to TEU volumes. The majority of the Port’s maritime revenue is from fixed rents. Variable marine terminal rent, directly tied to TEUs, is less than 15% of the total revenue budget. The revenue projections in the Port budget are consistent with the aforementioned TEU forecasts and do not otherwise affect or offer further insight into TEU volume forecasts.

From: Carla Collins (Signet)

Sent: Monday, June 27, 2022 9:16 PM

To: BCDC PublicComment ; Otto Lee; John Vasquez; Brad Wagenknecht; Dave Pine; Eddie Ahn; Jesse Arreguin; John Gioia

Subject: BCDC Vote Yes to Remove Howard Terminal from Port Priority Use - Town Business/Signet Support Letter

Importance: High

Dear Commissioners of the Bay Conservation and Development Commission,

As a member of [Town Business](#), an initiative launched by 125+ Oakland business leaders to promote economic and civic progress in Oakland; Past President of [Construction Management Association of America \(CMAA\) Northern California Chapter](#) with 1,200 members; and past Advisory Board member of [Urban Land Institute Sacramento](#), I am writing in strong support of removing the Port Priority Use Area designation at Howard Terminal at the Port of Oakland.

[Signet Testing Laboratories, Inc.'s](#) (Signet) has been headquartered in Hayward, California since 1966 and is a Certified Small Business Enterprise by Alameda County. Having performed construction inspection and construction materials testing here in the San Francisco Bay Area on many of Oakland's prestigious projects including the Oakland City Hall Seismic Retrofit, 555 City Center and the Elihu Harris State Office Building.

I urge you to vote favorably on June 30th to approve the Removal of Port Priority Use Area designation.

We thank you for your dedication to protect and enhance the San Francisco Bay with responsible and productive use for future generations, clearing a path for this once-in-a-generation economic development opportunity for the region will link the waterfront with downtown Oakland and make the waterfront more accessible for all to enjoy.

Respectfully,

CARLA COLLINS | VICE PRESIDENT/ SENIOR PROJECT MANAGER



June 27, 2022

San Francisco Bay Conservation and Development Commission

375 Beale St., Suite 510
San Francisco, CA 94105

RE: Howard Terminal Waterfront Ballpark Project Support Letter – Remove Port Priority

Dear Commissioners of the Bay Conservation and Development Commission,

As a member of [Town Business](#), an initiative launched by 125+ Oakland business leaders to promote economic and civic progress in Oakland; Past President of [Construction Management Association of America \(CMAA\) Northern California Chapter](#) with 1,200 members; and past Advisory Board member of [Urban Land Institute Sacramento](#), I am writing in strong support of removing the Port Priority Use Area designation at Howard Terminal at the Port of Oakland.

Signet Testing Laboratories, Inc.'s (Signet) has been headquartered in Hayward, California since 1966 and is a Certified Small Business Enterprise by Alameda County. Having performed construction inspection and construction materials testing here in the San Francisco Bay Area on many of Oakland's prestigious projects including the Oakland City Hall Seismic Retrofit, 555 City Center and the Elihu Harris State Office Building.

I urge you to vote favorably on June 30th to approve the Removal of Port Priority Use Area designation.

As we think about the future use of Oakland's waterfront, it is important to note the Port of Oakland has already determined this site is not needed now or in the future for Port activities. Danny Wan, the Port of Oakland's Executive Director, is on record stating "the use of Howard Terminal for the Oakland A's ballpark, housing and retail will not hurt the operations or business of the Port's shipping partners. The Port of Oakland has also voted unanimously in favor of the A's proposed project, making clear that redevelopment is the better course of action for the Port's long-term viability. Lastly, the A's proposal includes a significant commitment to return 20% of the site area to the Port of Oakland should the Port determine the land is needed to expand the Inner Harbor Basin.

We thank you for your dedication to protect and enhance the San Francisco Bay with responsible and productive use for future generations. Clearing a path for this once-in-a-generation economic development opportunity for the region will link the waterfront with downtown Oakland and make the waterfront more accessible for all to enjoy.

Sincerely,

Signet Testing Laboratories, Inc.

Carla Collins, Vice President

Signet Testing Laboratories, Inc.

3526 Breakwater Court • Hayward, California 94545 • Ph.: 510.887.8484 Fax: 510.259.1068

www.signettesting.com

From: nabeil mohamed
Sent: Monday, June 27, 2022 11:07 PM
To: BCDC PublicComment
Subject: East Bay Liquors

We at East Bay Liquors support removal of the port priority use designation from Howard Terminal. Thank you and Go A's!

Sent from my iPhone

From: eastbayliquor

Sent: Monday, June 27, 2022 11:09 PM

To: BCDC PublicComment

Subject:

Please vote in support of Howard Terminal Ballpark!!!!!!

Sent from Yahoo Mail for iPhone

From: Stephen Kent
Sent: Tuesday, June 28, 2022 7:34 AM
To: BCDC PublicComment
Subject: Support for Howard Terminal

Hi,

My name is Steve Kent and lifelong A's fans. Growing up in Fresno, my dad would drive my two younger brothers and up to Oakland for A's games several times a season and I have a continued to attend A's games regularly since moving to Sacramento ten years ago. The A's bring great pride not only to Oakland, but also to Northern California.

I support the removal of Howard Terminal's port distinction clearly the way for new ball park and associated development. This decision will help to finally transform Jack London into what has been envisioned for decades. This is not a baseball matter, but an Oakland Matter. Removal of the port decision will boost Oakland's ability to live up to its world-class city potential.

Thank you for your time and consideration,

Steve Kent

From: ED HAND

Sent: Tuesday, June 28, 2022 8:33 AM

To: BCDC PublicComment

Subject: Oakland A's

Keep the A's in Oakland. It is a great source of entertainment. As teen we would go summer day games. Kept us out of trouble

Ed Hand

Sent from my iPhone

From: Jolene Mattson

Sent: Tuesday, June 28, 2022 10:51 AM

To: BCDC PublicComment

Subject: I support the A's stadium at Howard Terminal

Good Morning,

I live in Oakland and I wish to register my support of the A's stadium at Howard Terminal.

Signed: Jolene Mattson

From: RUSSELL :: TAMO

Sent: Tuesday, June 28, 2022 12:17 PM

To: BCDC PublicComment

Subject: I support the A's stadium at Howard Terminal

Good Afternoon

My family lives in Oakland and I wish to register my support of the A's stadium at Howard Terminal.

Sincerely,
Lisa Russell

Go A's!

From: Cheryl Lehn

Sent: Tuesday, June 28, 2022 2:06 PM

To: BCDC PublicComment

Subject: June 30, 2022 BCDC Meeting - Public Comments

Importance: High

Please see the attached comment letter to the San Francisco Bay Conservation & Development Commission re Howard Terminal Seaport Priority Use (Bay Plan Amendment 2-19) for the meeting being held on June 30, 2022.

This letter is being submitted by numerous agricultural organization and rural Mayors throughout California.

Submitted by: Manuel Cunha, Jr., President, Nisei Farmers League and Will Scott, Jr., President, African American Farmers of California

For questions or comments, please call or email.

*Nisei Farmers League
Celebrating 50 years
1971 to 2021*



**Growers Looking Out For Growers
and Farm Workers**

Cheryl Lehn
Office Manager
Nisei Farmers League
Fresno, CA 93727

June 28, 2022

To: San Francisco Bay Conservation & Development Commission
Re: Howard Terminal Seaport Priority Use (Bay Plan Amendment 2-19)

Submitted to:
For Meeting held June 30, 2022

California agriculture needs the Port of Oakland. For decades, the Port has been the primary gateway for California agricultural exports. Whether it is wine from the North Bay, lettuce from the Salinas Valley, almonds from the Central Valley or rice from the northern reaches of the State, our relationship with the Port has been essential and successful and helped create jobs throughout California. (Access link for detailed list of agricultural commodities: www.ams.usda.gov/sites/default/files/OaklandPort.pdf.)

According to the US Census Bureau, in 2021 72.8% of all of Oakland's containerized exports by value and 55.0% by weight are agricultural products. But all of that is threatened with a proposed office complex, luxury hotel, condominium, concert facility and ballpark on Port property. A project that does nothing to enhance the capability of the Port but does threaten its existence which in turn threatens much of California agriculture.

Farmers know all too well what happens when development crowds out productive land and essential services like those provided by the Port. Restrictions, lawsuits, complaints occur as new residents and their expectations conflict with the workings of agriculture and related businesses like the Port where a development project will be built right up against the fence line of maritime operations.

We know from experience that promises by developers and public officials to protect the continued economic existence of neighboring facilities are often hollow at best.

More specifically, it's a fantasy to think that bringing three million people to the waterfront, as declared by the Howard Terminal proponents, will not negatively impact the Port. After having paid millions of dollars for condominiums, how many people will tolerate looking out over a container terminal with lights on all night, or will enjoy the intersection of sounds of ships, trucks, trains and containers banging all day and all night.

While some falsely claim that the Howard Terminal is an empty parking lot and therefore expendable, as major users of the Port, we know the opposite to be true. We see an essential terminal bulging at the seams which needs to expand, not downsize, in order to facilitate the movement of California agricultural products worldwide.

What is certain, is that California agriculture will continue to expand its overseas markets, creating jobs throughout California's supply chain, and making the Port as we know it even more vital to the collective future of California.

Nisei Farmers League
African American Farmers of California
California Farm Bureau Federation
Mayor Alvaro Preciado, City of Avenal
Mayor Brady Jenkins, City of Firebaugh
Mayor Pro tem Mark Rodriguez, City of Fowler
Mayor Rolando Castro, City of Mendota
Mayor Alma Beltran, City of Parlier
Mayor Eli Ontiveros, City of Sanger
Mayor Rudy Mendoza, City of Woodlake
Agricultural Council of California
American Pistachio Growers
California Apple Commission
California Blueberry Association
California Blueberry Commission
California Cotton Ginner & Growers Association
California Fresh Fruit Association
Central Valley Latino Mayors & Elected Officials Coalition
Far West Equipment Dealers Association
Milk Producers Council
Olive Growers Council of California
Western Agricultural Processors Association
Western Growers Association

The list of agricultural organizations and rural Mayors was Submitted by: Manuel Cunha, Jr., President, Nisei Farmers League and Will Scott, Jr., President, African American Farmers of California
Fresno, CA 93727

From: Steve Galli
Sent: Tuesday, June 28, 2022 2:44 PM
To: BCDC PublicComment
Subject: A's Project at Howard Terminal

I am writing to support the Oakland A's project at Howard Terminal. I am not writing this just as an A's fan who does not want to see the team leave, although that is certainly one of the reasons I want the project to go through. I am also not writing this in support of the ownership group, who I believe has been less than dedicated to Oakland for many years. I am writing this in support of the entire project, and what it would mean for the continued transformation of Oakland and its waterfront. Oakland has lagged behind San Francisco for decades. Investment flight from, and avoidance of, this city in the last 50 years has left Oakland as a second class city in the Bay Area. Oakland has started to reap new development funds in the last decade, and this project is a huge step in the direction of transforming Oakland into a first class city in the best location in the entire country.

When manufacturing and industry left Oakland in the late 1960's and 1970's, so did all of the investment money. San Francisco and San Jose have received all of the major investments during that time period. Oakland has not had any significant development during that time period.

The construction of the Coliseum Complex and it's opening in 1968 was a great achievement for the East Bay. However, that site is not viable as a destination site that will attract hotel, retail, and housing to the area. All of the teams that come to play in Oakland, and likely many, most, or maybe all of the performers who perform at the Coliseum Arena, stay at hotels in San Francisco. If you were coming to the area for business, you would not stay in a hotel in Oakland unless the event was held there.

The Howard Terminal site will never be used for Port of Oakland shipping. It is not viable for today's cargo ships.

The BCDC staff has come out in support of the project.

The Greenbelt Alliance also came out in support of the project in May of this year.

This development is potentially transformational for Oakland. There is no other development like this that will bring Oakland the capital needed to develop this beautiful area and help Oakland to become a destination site for people from the Bay Area and the world.

As a lifelong Bay Area resident, local business owner, and ardent supporter of the East Bay, my hope is that you vote in favor of this development as a vote in favor of the future of Oakland.

Sincerely,
Steve Galli

From: Dan Borlik

Sent: Tuesday, June 28, 2022 3:07 PM

To: BCDC PublicComment

Subject: Public Comment for June 30 Meeting

Hello,

I wanted to write in support of the request to remove the Port Priority Use Area Designation for Howard Terminal in Oakland. This land can be put to a better use, and I would say its best use, through the development plan from the Oakland Athletics. A new civic facility that will be used for regional and national events, plus the extension of downtown Oakland, will greatly improve the lives of residents of Northern California. I look forward to the day I can attend A's games with my children at Howard Terminal, enjoying the waterfront. Vote to support the removal of the designation, and provide a path to a world-class amenity for the Bay Area.

Thank you,

Dan Borlik
Sacramento, CA

From: lisa edwards

Sent: Tuesday, June 28, 2022 5:18 PM

To: BCDC PublicComment

Subject: Port Designation

Whether it is the MLB or future development designation needs to be removed.

I don't know that John Fisher has Oakland's best interest at heart, I had once thought given his investment in education he did but his unwillingness to focus on the whole family unit and do all he can by way of affordable housing has me doubting he does anything without selfish intent.

I do know that housing will be needed with or without the A's and developers can be lured and our poor deserve something nice for a change.

Best wishes on your vote!

Have a great day,

Lisa Edwards

From: Rob Harrison

Sent: Tuesday, June 28, 2022 6:49 PM

To: BCDC PublicComment

Subject: Remove access port priority access from Howard Terminal.

Dear Commissioners

I am a West Oakland resident and I am writing today to ask that BCDC vote to remove port priority from Howard Terminal to allow the Oakland As project to move forward.

The opportunity to provide Oaklanders access to the Waterfront, more affordable housing and much needed infrastructure improvements cannot be missed. Not only will the project add a fantastic green space, more jobs, stimulate local businesses, it will also help revive the area in West Oakland/Jack London Square.

I have a 4yr old son and there are barely any safe, clean, green areas to take him or walk to. With the removal of port priority from Howard Terminal space and the creation of a Waterfront ballpark, it will leave a legacy and landmark that Oaklanders can enjoy for generations to come.

Having grown up in the UK, I have seen the huge local benefits of new arenas/stadiums developed in urban areas. The Oakland As Howard Terminal project will provide the city with a World Class event venue that will attract visitors from all over the world.

The proposed development at Howard Terminal has so many benefits to the community and the city, I urge you not to miss this opportunity to make historic change for Oakland and its future generations.

Regards

Rob Harrison

From: Lance Stapleton
Sent: Tuesday, June 28, 2022 7:37 PM
To: BCDC PublicComment
Subject: Support the Removal of Port Designation at HT

Hello BCDC Commissioners,

I am an Oakland resident, taxpayer, and ardent Oakland A's fan. I am writing to request that you remove port priority of the Howard Terminal site, thus enabling the City and the A's to clear another vital hurdle to realize a vibrant waterfront ballpark community for Oakland. Moreover, I implore the BCDC to allow the City of Oakland and its elected officials to determine its potential development future like the SF waterfront has been allowed to do unfettered over the years.

While many concerns still need to be addressed, your decision will mark another milestone achieved as we try to retain a sports identity while also remaking an area of the City long needing an overhaul. The waterfront community will attract business, long-term tax dollars, tourism, and serve as a jewel for the City to be proud of. Consider the booming Mission Bay area since the Giants built their ballpark and ancillary development soon followed suit. Oakland needs a similar catalyst and this plan could undoubtedly jumpstart its economy even further.

Thank you for your time in reading my message. I look forward to the voting session on June 30. Let's go, BCDC. Let's go, A's. And most importantly, let's go, Oakland!

Cheers,
Lance Stapleton

From: Lindabreauxsmith
Sent: Tuesday, June 28, 2022 7:48 PM
To: BCDC PublicComment
Subject: Howard Terminal - Opposition to the project

Dear Commissioners:

I am a resident of Oakland, and I live in District 6 in East Oakland. I am totally opposed to the A's plan to build a ballpark at Howard Terminal for several reasons:

Firstly, I believe the residents of Oakland should have the vote on whether to approve this project. The A's are requesting a lot of public funds from Oakland to build this stadium. Therefore, the residents of Oakland should have a say in whether we want to support this project. Frankly, if the A's wish to stay in Oakland, the Coliseum, where the team is currently located, is the ideal spot to redevelop.

Secondly, shipping companies, the Port, Union Pacific, and the Longshoreman Union have all expressed opposition to the Commission in previous meetings as to why it isn't feasible to turn Howard Terminal into a ballpark, and how it will disrupt shipping operations. Just a reminder, the Port of Oakland is the city's "bread and butter" industry.

Thirdly, environmentally, a new stadium at Howard Terminal will cause a lot of traffic congestion because there is no dedicated freeway exit as there is at the Coliseum; nor is there access to public transportation such as BART and AC Transit which service the current A's stadium at the coliseum.

I hope the Commission will consider what is best for the City of Oakland and that would be to leave Howard Terminal for Port operations.

Yours truly,

Linda B. Smith
Oakland, CA 94605

From: Kaitlyn Farley

Sent: Tuesday, June 28, 2022 11:09 PM

To: BCDL PublicComment

Subject: Keep the A's and take my money

Keep the A's in Oakland! The local jobs, the future tourism, the excitement and development Jack London square and the waterfront are desperately lacking. I can't wait to spend so much money before, during, and after A's games exploring the area and bringing friends from out of town who currently only want to go to San Francisco. I want my money to stay in Oakland, I want my team to stay in Oakland!

Sent from my iPhone

From: Matt Kratoville

Sent: Wednesday, June 29, 2022 6:21 AM

To: BCDC PublicComment

Subject: Please vote YES on the Howard Terminal Ballpark

Dear folks:

Please vote YES on the Howard Terminal Ballpark!!! After all, look what happened with the San Francisco Giants when they moved into Pac-Bell Park in 2000.

Matt Kratoville, Ignacio CA

From: Alex Harmon
Sent: Wednesday, June 29, 2022 7:59 AM
To: BCDC PublicComment
Subject: YES for the A's at Howard Terminal

Hello SFB CDC,

My name is Alex Harmon, a lifelong proud Alameda County resident and I am writing to you in support of removing port designation from Howard Terminal.

The Howard Terminal project is a huge WIN for both the A's and the City of Oakland plus the greater East Bay and San Francisco Bay Area as a region. The A's need a desirable home to play in and the City of Oakland needs an anchor to bring back life to its downtown and Jack London Square. Many businesses and residents want to be part of a destination that this project will turn the area into. This project will also open up waterfront land to the public, which Oakland can seriously use more of with your help. This can happen along with the Port of Oakland remaining in their operation and become a great partnership.

A true proud Bay Area resident and/or a fan of any pro sports team would NOT want to see a team move out of their longtime market. The A's ARE Oakland and the East Bay as they have represented us in professional baseball for over five decades. The A's have chosen to embrace Oakland and the Bay Area during an unfortunate era of Oakland professional sports, so let's not lose them. The A's are a major part of the local culture for all kinds of people.

Even outside of Oakland A's fans, this ballpark project will build and increase civic pride for those who are from Oakland/East Bay and the Bay Area as a whole. We would be even more of a sports destination with two amazing waterfront ballparks highlighting our precious waterways that lead into the bay.

Please keep in mind that the Coliseum site is NOT an alternative as we need to continue to look forward to the future at Howard Terminal. This new ballpark and the overall project being centrally located near downtown will benefit even more people than the current East Oakland location. While many of us (myself included) embrace the Coliseum as our sports home, it's been long overdue to move on to a new site in Oakland. That new site in Oakland is Howard Terminal.

Thank you for your consideration and please vote in favor of removing port designation from Howard Terminal.

Let's Go OAKLAND and beyond!!!

Alex Harmon



June 29, 2022

To Whom It May Concern:

The Housing Action Coalition (HAC) is proud to endorse the Oakland A's proposed project for Howard Terminal. After an extensive presentation from the project team, our Project Review Committee determined the proposal would help address our region's severe housing shortage and resulting affordability and displacement crisis through the creation of thousands of well-designed, transit-oriented new homes.

The Oakland A's proposal for up to 3,000 new homes, 1.5 million square feet of office space, 270,000 square feet of retail, 400 hotel rooms, a 3,500 seat performance venue, and 18 acres of public open space would repurpose the site into critically-needed housing and services for current and future residents.

This type of placemaking would vastly improve the land use of the site. The space, which is currently used as short-term truck parking and temporary container storage for Port operations, would be transformed into new homes, businesses, and opportunities for recreation. Both MTC and ABAG have made this site a priority, indicating that it is the ideal location for new homes and a new community.

This project also presents an opportunity to support environmental sustainability. With cars accounting for approximately 25% of California's carbon emissions, encouraging alternative and more environmentally-friendly modes of transportation is essential to help our region meet its climate goals. The Howard Terminal project is within .25 miles of the 72 and 12 AC Transit lines, within a mile of three BART stations (West Oakland, 19th Street, and Lake Merritt), and directly adjacent to the San Francisco Bay Ferry. There is also a proposed "Mobility Hub" which would act as a home base for up to three rerouted AC Transit lines and provide micro-mobility options, bike share facilities, and transit information for visitors. These options will encourage residents to get out of their cars and use alternative transit options.

To that end, HAC recommends that the project further minimize parking onsite. Parking drives up housing costs, promotes car usage, increases congestion, and lessens the advantages of the project's proximity to transit.

All in all, the Howard Terminal project represents a well-designed, well-located proposal and we urge the Commission to remove the Port priority designation in order to move it forward.

Sincerely,

A handwritten signature in blue ink that reads "Todd David".

Todd David, Executive Director
Housing Action Coalition (HAC)

From: Alex Oestreicher

Sent: Wednesday, June 29, 2022 8:28 AM

To: BCDC PublicComment

Subject: East Bay Resident in strong support of removing port priority status for Howard Terminal

Dear BCDC Commissioners-

Thank you for taking the time to review this important issue and public comments on it. As a long time east bay resident I strongly support removing port priority status for Howard Terminal. The Howard Terminal project being proposed would turn what is now a private, off-limits, mostly vacant parking lot for trucks and turn it into a public asset for Oakland. In addition, the project would add very sorely needed affordable housing, and long term jobs for East Bay residents.

Please follow your recommendations and vote to remove port priority for this land. Do it for the future of the East Bay.

Thank you,

--

Alex Oestreicher

From: Michael Fernandez
Sent: Wednesday, June 29, 2022 8:39 AM
To: BCDC PublicComment
Subject: Vote YES on Howard Terminal

Hi,

I'm a lifelong Giants fan, SF native, and now East Bay resident. Please VOTE YES to move this project forward. Oakland, the East Bay, and the Bay Area deserve to have a beautiful new waterfront destination! This will spur economic growth for Oakland, increase tax revenues, create new jobs, and beautify a very blighted area. It's a win-win. Thanks. Go A's!

-Michael Fernandez

From: Beth Weinberger

Sent: Wednesday, June 29, 2022 9:04 AM

To: BCDC PublicComment

Subject: Howard Terminal should NOT be removed from Port Priority Use

Oakland Port's future as a working port and economic driver for the city and region depends on its ability to meet future demand. Removal of Howard Terminal from Port Priority Use would be shortsighted at best.

Any decision that reduces the waterfront's dedication to maritime jobs undermines the Port of Oakland's success and sets a precedent for shrinking the city's blue-collar population in favor of private developers who do not have a commitment to the West Oakland community. The port is home to over 80,000 thousand jobs, thousands of them unionized.

Beth Weinberger
Oakland

From: Chad Stone

Sent: Wednesday, June 29, 2022 9:13 AM

To: BCDC PublicComment

Subject: Yes on Howard Terminal Project

Hello

I am a 23 year citizen of Oakland and am in full support of the Howard Terminal project. Oakland needs this to not only keep my beloved A's in Oakland but to make Jack London, the lake and downtown corridors the shopping, living and entertainment district we citizens know it should be. Additionally, the environmental impacts for the area will be a boon to citizens of W Oakland and the surrounding areas.

Please vote yes for the Howard Terminal project tomorrow

Thank you,
Chad Stone
Oakland, CA 94611

From: Aleksander PrechtI
Sent: Wednesday, June 29, 2022 10:51 AM
To: BCDC PublicComment
Subject: I support the A's stadium at Howard Terminal

Good Morning,

I live in Oakland and I wish to register my support of the A's stadium at Howard Terminal.

Thank you,
Aleksander PrechtI
Oakland CA 94609



SILICON VALLEY LEADERSHIP GROUP

▼ 2001 Gateway Place, Suite 101E
San Jose, California 95110

☎ (408) 501-7864

🌐 svlg.org

DATE

June 30, 2022

Ahmad Thomas, CEO
Silicon Valley Leadership Group

Jed York, Chair
San Francisco 49ers

Eric S. Yuan, Vice Chair
Zoom Video Communications

James Gutierrez, Vice Chair
Luva

Victoria Huff Eckert, Treasurer
PwC US

Greg Becker
Silicon Valley Bank

Aart de Geus
Synopsis

Vintage Foster
AMF Media Group

Raquel Gonzalez
Bank of America

Paul A. King
Stanford Children's Health

Ibi Krukubro
EY

Alan Lowe
Lumentum

Judy C. Miner
Foothill-De Anza Community
College District

Rao Mulpuri
View

Kim Polese
CrowdSmart

Sharon Ryan
Bay Area News Group

Siva Sivaram
Western Digital

Tom Werner
Mainspring Energy

San Francisco Bay Conservation and Development Commission
375 Beale St., Suite 510
San Francisco, CA 94105

RE: Item 8. Remove the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County.

Dear Commissioners of the Bay Conservation and Development Commission,

On behalf of the Silicon Valley Leadership Group, I am writing in support of removing the Port Priority Use Area designation at Howard Terminal at the Port of Oakland. This project is a once-in-a-generation economic development opportunity for the region that will link the waterfront with downtown Oakland.

The Silicon Valley Leadership Group supports this transformative development because it will change the way people can live, work, and play in Oakland. A new ballpark at the waterfront will generate more than \$7 billion in economic activity for the region and revitalize the Jack London Square District with thriving retail, restaurants, and small businesses.

This project will help fix roads, improve pedestrian, and rail safety, and build 3,000 units of desperately needed housing. Furthermore, Oakland residents deserve the environmental and community benefits this project will bring. As it currently sits, Howard Terminal is an underutilized industrial site with a history of activities that pollute the West Oakland community. The A's project promises to clean-up this industrial site with private dollars and return public access to the waterfront with over 18 acres of public parks and open greenspace.

It is important to note the Port of Oakland has voted unanimously in favor of the A's proposed project because they determined this site is not needed now or in the future for Port activities and that the use of Howard Terminal for the Oakland A's ballpark, housing, and retail will not hurt the operations or business of the Port's shipping partners.

Finally, the June 17th BCDC staff report recommends removing the Port Priority Use Area designation at Howard Terminal finding that, "the Applicant has demonstrated that removing Howard Terminal for the purposes of container cargo would not detract from the regional capability to handle cargo within the forecasted planning horizon."

We urge you to approve the removal of Howard Terminal from Port Priority Use at your upcoming meeting on June 30th and stand ready to support the project's success for decades to come.

Sincerely,

Vince Rocha
Vice President
Silicon Valley Leadership Group

From: Jess O

Sent: Wednesday, June 29, 2022 12:30 PM

To: BCDC PublicComment

Subject: VOTE YES ON THE OAKLAND ATHLETICS NEW STADIUM

CA and Oakland citizens are asking you to VOTE YES on the new stadium at Hunters Terminal.

Thanks for helping to make this happen!

Jess O'Brien
Oakland CA

From: Greg Trevizo
Sent: Wednesday, June 29, 2022 12:53 PM
Subject: BCDC / Hightower site

Dear BCDC Commissioners,

I am writing today to ask that you imagine two different versions of Howard Terminal. In the first version Howard Terminal is the preserve of known, chronic polluters and for the idling of trucks. A wasteland worthy of a grim techno-thriller where the people of Oakland and the Bay Area have no access to the waterfront in favor of environmentally harmful industrial operations. In the second version Howard Terminal is a cornerstone of a revived, vibrant and lucrative Oakland waterfront, with housing, thriving small businesses, massive amounts of tax revenue and the citizenry of the area able to enjoy spectacular access to the East Bay waterfront. Best of all, trucks are no longer being idled and polluting industries have been removed, allowing the people of Oakland to breathe a little freer.

The first version of Howard Terminal described above is very close to the actual status quo. Pollution, minimal tax revenue and prime waterfront land denied to the people of the East Bay are the current situation at Howard Terminal. However, the proposed development at Howard Terminal gives us the opportunity to reach a reality similar to the second vision of Howard Terminal, one where polluters are banished from Oakland, the people are allowed wonderful access to the Bay, local businesses receive a huge boost from increased foot traffic due to the presence of a major attraction and tax revenues pour into local coffers to be used for governmental needs.

Oaklanders have often suffered at the hands of polluters and short-sighted environmental policies. The proposed development at Howard Terminal provides an opportunity for environmental justice, including the removal of egregious polluters, that will be felt throughout Oakland and the East Bay.

While a project as big and ambitious as that proposed by the Oakland A's at Howard Terminal will have its ups and downs it is the only project of its size and scope that promises to deliver such benefits to Oakland. Thus I am writing today to ask that BCDC vote to remove port priority from Howard Terminal to allow this project to go ahead and to move past the current environmentally damaging, land misusing status quo.

Thank you for your consideration.

Greg Trevizo
Season Ticket Holder at HT (when built)

From: Christopher Pieri

Sent: Wednesday, June 29, 2022 2:44 PM

To: BCDC PublicComment

Subject: A's Howard Terminal Proposal

Hello,

As a lifelong A's fan and Bay Area resident, I am really pulling for the BCDC vote going in favor of the A's and the Howard Terminal project.

The ballpark will be a cleaner use of this area than any other industrial/port use, and will be a place of enjoyment for thousands of people.

I understand the A's may even perform some environmental remediation (clean-up) work. Seems like a win-win.

Go A's, go Oakland, and Go The Bay!

Chris Pieri

Alameda Resident

From: Collin Weiner

Sent: Wednesday, June 29, 2022 2:51 PM

To: BCDC PublicComment

Subject: CalEnergy Corp. - support the Howard Terminal project and the removal of the of Port Priority Use Area designation

Hello,

Please see attached our letter of support for the Howard Terminal Project and to keep the A's in Oakland. We as an organization do not only see the importance of this project for the future of Oakland, but for the vitality of the greater bay area as a whole. Thank you.

--

Kind Regards,

Collin J. Weiner, President

Calcorp, Cloatt

CalEnergy Corporation

San Francisco Bay Conservation and Development Commission
375 Beale St., Suite 510
San Francisco, CA 94105

Dear Commissioners of the Bay Conservation and Development Commission,

As a member of Town Business, an initiative launched by 125+ Oakland business leaders to promote economic and civic progress in Oakland, I am writing in strong support of removing the Port Priority Use Area designation at Howard Terminal at the Port of Oakland. This project is a once-in-a-generation economic development opportunity for the region that will link the waterfront with downtown Oakland.

A new ballpark at the waterfront will generate more than \$7 billion in economic activity for the region and revitalize the Jack London Square District with thriving retail, restaurants, and small businesses. This project will help fix roads, improve pedestrian and rail safety, and build 3,000 units of desperately needed housing. Furthermore, Oakland residents deserve the transformative environmental and community benefits this project will bring. As it currently sits, Howard Terminal is an underutilized industrial site with a history of activities that pollute the West Oakland community. The A's project promises to clean-up this industrial site with private dollars and return public access to the waterfront with over 18 acres of public parks and open greenspace.

As we think about the future use of Oakland's waterfront, it is important to note the Port of Oakland has already determined this site is not needed now or in the future for Port activities. Danny Wan, the Port of Oakland's Executive Director, is on record stating "the use of Howard Terminal for the Oakland A's ballpark, housing and retail will not hurt the operations or business of the Port's shipping partners. The Port of Oakland has also voted unanimously in favor of the A's proposed project, making clear that redevelopment is the better course of action for the Port's long-term viability. Lastly, the A's proposal includes a significant commitment to return 20% of the site area to the Port of Oakland should the Port determine the land is needed to expand the Inner Harbor Basin.

For the reasons stated above, I urge you to approve the removal of Howard Terminal from Port Priority Use at your upcoming meeting on June 30th and stand ready to support the project's success for decades to come.

Respectfully,

Collin Weiner
CalEnergy Corporation

Collin Weiner



From: Ray Rasul
Sent: Wednesday, June 29, 2022 2:56 PM
To: BCDC PublicComment
Subject: Oakland A's New Ballpark

Dear Council Members, Mayor Libby Schaff, Bay Area Sports Fans It is imperative that we keep our crown jewel of Oakland Sports in Oakland.

Our grandmother built Liberty ships with her two sisters at Mare Island while living in Oakland and sending their sons off to WWII all came back to become solid fans of A's, Raiders and Warriors. These teams were vital to the community in so many ways. Please keep our sports identity with the A's and Oakland it is essential for jobs, growth, city local color and recognition by the world of sports.

Thank You,

Ray Rasul, Family and Friends
Let's Go A's

Sent from my iPhone

From: Naomi Schiff

Sent: Wednesday, June 29, 2022 3:04 PM

To: BCDC PublicComment

Subject: Howard Terminal/Port of Oakland

Dear Commissioners,

Please do NOT remove maritime activities from Howard Terminal. It is antithetical to the goal of preserving our bayshore to build a wall of high-rise luxury apartments and a tall brightly-lit stadium in the name of public access. Why build these large structures in an inundation zone in a liquefaction zone where sea-level rise is inevitable? I fully support increased public access and bay trail construction in the area; but it is wrongheaded to encourage dense construction, and I fear that my grandchildren will have to pay for protecting these structures as they become more prone to flooding. Where is your expertise in a time of global warming?

In addition, I question the objectivity of Chair Wasserman and request that he recuse himself, along with any other commissioners who have financial or perceived conflicts in the matter.

The financial benefits being dangled before you and before the citizens of Oakland are dependent upon what has now grown to requests for a billion dollars of public funding. This will not be repaid back in my lifetime nor in the lifetime of my children. Oakland has a much larger site available, with a completed EIR and excellent transportation links, and half owned by Mr. Fisher's group. The proposed site at Howard Terminal will create traffic nightmares, inhibit port transportation, and increase pollution, things which will not enhance the shoreline experience, but rather put recreational users at pulmonary risk, and create havoc on the freeways for car drivers and for the transport of goods.

Please don't remove maritime uses from the site.

Thank you,

Naomi Schiff

Oakland taxpayer since 1974

Naomi Schiff

From: Moorman, Eric

Sent: Wednesday, June 29, 2022 3:30 PM

To: BCDC PublicComment

Cc: Van Buskirk, Ronald E. ronald.vanbuskirk@pillsburylaw.com; Moorman, Eric
eric.moorman@pillsburylaw.com

Subject: Comments re June 30, 2022 Commission Meeting -- Agenda Item 8

Good afternoon,

Please find the attached comment letter regarding the Commission's June 30, 2022 Meeting—Vote on the Oakland Athletics' Application to Remove the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, Bay Plan Amendment No. 2-19 (Agenda Item 8). Please ensure that these comments are transmitted to every member of the Commission prior to the June 30 meeting.

Best regards,
Eric Moorman

Eric Moorman | Associate

Pillsbury Winthrop Shaw Pittman LLP



Pillsbury Winthrop Shaw Pittman LLP
Four Embarcadero Center, 22nd Floor | San Francisco, CA 94111-5998 | tel 415.983.1000 | fax 415.983.1200

MAILING ADDRESS: P.O. Box 2824, San Francisco, CA 94126-2824

Eric T. Moorman
tel: +1.415.983.1211
eric.moorman@pillsburylaw.com

June 29, 2022

Lawrence J. Goldzband
Executive Director
San Francisco Bay Conservation and Development Commission
375 Beale St., Suite 510
San Francisco, CA 94105

Submitted Electronically to publiccomment@bcdc.ca.gov

Re: Commission June 30, 2022 Meeting—Comments re: Staff Final
Recommendation and Revised Environmental Assessment for Proposed Bay
Plan Amendment No. 2-19 Concerning Removal of Howard Terminal Port
Priority Use Designation

Dear Director Goldzband:

These comments are submitted on behalf of the East Oakland Stadium Alliance and its members (“EOSA”) regarding the June 30 meeting of the Bay Conservation and Development Commission (the “Commission” or “BCDC”) to consider Bay Plan Amendment No. 2-19 (“BPA 2-19”), proposed by a private party, which would remove the Port Priority Use (“PPU”) designation for Howard Terminal. These comments are in addition to EOSA’s prior comments on BPA 2-19, submitted on June 1, 2022.

Please ensure that these comments are transmitted to every member of the Commission prior to the commencement of the June 30 meeting.

As described further below, BCDC’s Final Staff Recommendation, Response to Public Comments (“RTCs”), and Revised Environmental Assessment (“Revised EA”) released on June 17, 2022, do not correct the significant deficiencies raised in EOSA’s June 1 comment letter. The Commission must correct these deficiencies before undertaking any consideration or vote on BPA 2-19.

1. The Commission's Revised Environmental Assessment Violates CEQA.

The Revised EA fails to correct the significant CEQA deficiencies raised in EOSA's previous comment letters, including, but not limited to, the following:

Improper Definition of CEQA "Project."

As explained in EOSA's June 1 comment letter, BPA 2-19 is an essential first step in the Oakland Athletics' ("Applicant") proposed baseball stadium and mixed-use development project (the "Development Project") at the Howard Terminal site.¹ As a result, it cannot be analyzed as a "distinct and independent" project from the Development Project under CEQA. (CEQA Guidelines § 15378.) However, the Revised EA continues to claim that BPA 2-19 and the Development Project are "distinct and separate projects" for CEQA purposes, and that the Commission simultaneously serves as the "lead agency" for BPA 2-19, and "responsible agency" for the Development Project. Revised EA, at p. 4. As explained in EOSA's previous letters, this reflects a fundamental misunderstanding of CEQA. Like the initial EA, the Revised EA continues to treat the Bay Plan Amendment as a "stand-alone" project, thereby improperly "piecemealing" environmental review of the Bay Plan Amendment from review of the Development Project at large, in violation of CEQA.

Inadequate Analysis of Development Project's Impacts.

Like the initial EA, the Revised EA fails to adequately evaluate all reasonably foreseeable adverse environmental effects from the Development Project as a whole. The Revised EA continues to claim that the Development Project is "wholly speculative" and is not a "reasonably foreseeable" effect of BPA 2-19, and on that basis concludes that the Commission "is not required to evaluate the environmental impacts of the Ballpark Project consistent with BCDC's certified regulatory program, and CEQA principles generally." Revised EA, at p. 43.

At the same time, the Revised EA purports to include "additional analysis" of the impacts of the Development Project, "assuming the Ballpark to be an indirect effect of BPA No. 2-19." This "additional analysis," however, consists primarily of expanded summaries of the impact discussions and mitigation measures from the City's EIR, including for biological resources, water quality, geology, and other

¹ Indeed, the Revised EA continues to recognize that BPA 2-19 is "clearly a project-driven BPA request" and a "necessary precondition" for approval of the Development Project. Revised EA, at p. 9.

impact areas, with little or no “new” analysis.² As described in EOSA’s first comment letter, the City’s EIR itself is inadequate in a number of critical respects, and cannot support the Commission’s reliance on it for approval of BPA 2-19.³ The Revised EA’s continued reliance on additional information from the EIR relating to potential environmental effects of the Development Project cannot cure the defects in the initial EA.

Inadequate Analysis of Environmental Impacts Related to a Shift of Port-Related Activities to Benicia.

As explained in EOSA’s first comment letter, the initial EA failed to address reasonably foreseeable environmental impacts associated with a potential shift in vessel and truck traffic to the Port of Benicia (and other reasonably foreseeable port sites) as a result of the removal of the PPUA designation from Howard Terminal, including impacts related to air quality, navigational safety, biological resources, transportation, and others. Such impacts are reasonably foreseeable in light of the “additional information” provided by BCDC staff regarding additional acreage for ro-ro capacity purportedly available at the Port of Benicia, which was not included in the Cargo Forecast.⁴

The Revised EA and RTCs ignore EOSA’s comments on this issue, claiming that “there is no ‘reasonably foreseeable potential shift of forecasted cargo transportation and activity from Howard Terminal to the Port of Benicia’ as a result of BPA No. 2-19 and that assertion is not supported by the most current information considered in relation to the cargo forecast.” RTCs, at p. 24. This cursory response does not address EOSA’s comments, and no further discussion of the issue is provided in the Revised EA. The reasonably foreseeable shift of truck and vessel traffic to Benicia as

² In reality, this approach is no different from the deficient approach taken in the original EA, which discussed impacts of the HT Project at a “high level” and for “informational purposes” only.

³ The City’s EIR has been challenged in several actions filed in Alameda County Superior Court. See *Capitol Corridor Joint Powers Authority v. City of Oakland* (Case No. 22CV009309); *East Oakland Stadium Alliance v. City of Oakland* (Case No. 22CV009325); *Union Pacific Railroad Company v. City of Oakland* (Case No. 22CV009330). Petitioners’ Joint Opening Brief in these actions, filed June 27, 2022, is attached hereto as **Exhibit A**.

⁴ As noted in EOSA’s initial comment letter, this information was provided to the Commission shortly before its June 2, 2022 meeting to consider BPA 2-19. It was not provided to the SPAC, the public, or the Commission prior to the March 2022 SPAC meeting. Furthermore, BPA 2-19 was not returned to the SAPC for reconsideration in light of this new information.

a result of removing Howard Terminal's PPUA designation under BPA 2-19—and attendant environmental impacts—should have been addressed in the Revised EA.

Inadequate Analysis of Potential Bay Fill.

The Revised EA also fails to undertake a sufficient analysis of potential impacts resulting from future Bay fill associated with the Development Project and BPA 2-19. The EA acknowledges that it is “possible” that approval of BPA 2-19 “could increase pressure for new Bay fill for other Port Priority Use Areas” by removing the PPUA designation from Howard Terminal. Revised EA, at p. 27. The Revised EA also acknowledges the numerous adverse environmental impacts of Bay fill, including destruction of fish and wildlife habitat, increased danger of air and water pollution, and others. *Id.*, at pp. 31-32. Nonetheless, the Revised EA concludes that no indirect environmental effects associated with the need for additional Bay fill would “likely occur” and no mitigation measures are required to address such impacts. *Id.* at p. 32.⁵ This is wholly inadequate under CEQA. The Revised EA was required to provide a thorough analysis of the potential environmental effects of BPA 2-19 and the Development Project related to future Bay fill, including any potential impacts to biological resources and water quality.

Failure to Study Impacts of Relocation of Existing Uses from Howard Terminal.

The Revised EA acknowledges that the Development Project could result in the relocation of the existing ancillary maritime uses currently occupying the Howard Terminal site, but concludes that such relocation is not a reasonably foreseeable effect of BPA 2-19, because changes in ancillary uses are “speculative” and would only be required “after all other required discretionary approvals are obtained to proceed with construction of the Ballpark Project.” Revised EA, at p. 26. This conclusion is unsupported by evidence, and the Revised EA was required to evaluate reasonably foreseeable environmental effects resulting from potential relocation of existing ancillary uses at Howard Terminal to other locations in the Seaport as a result of the Development Project, including potential impacts to air quality and transportation.

⁵ The Revised EA also concludes that removal of the PPU designation from Howard Terminal “could indirectly contribute to a cumulative need for additional Bay fill to meet [increased] demands” beyond 2050, but claims that such effects “cannot be known with any precision or certainty because no such fill is associated with BPA No. 2-19, and the potential need for additional fill to meet the region’s high growth maritime cargo demands would be subject to separate permitting processes.” Revised EA, at p. 33.

Failure to Address Cumulative Impacts of the Turning Basin Project.

The Revised EA acknowledges that the Port of Oakland released a Notice of Preparation (“NOP”) for the Turning Basin Widening Project in May 2022. However, the Revised EA fails to undertake any analysis of potential cumulative impacts of the Turning Basin Project together with BPA 2-19, claiming the Turning Basin Project is “speculative” because BCDC has not received a formal request from the Port or the U.S. Army Corps of Engineers to review the project, and the environmental impacts of the expansion would need to be analyzed in a future CEQA document. Revised EA, at p. 78; Final Staff Recommendation, at p. 13. But it is hardly speculative when an NOP for an EIR has been released (and it is part of the formal Maritime Reservation Scenario in the Development Project EIR itself). The Revised EA was required to consider the cumulative impacts of this project together with impacts of BPA 2-19 and the Development Project as a whole.

2. Conflicts of Interest.

The EOSA continues to have significant concerns regarding conflicts of interest related to the participation of Commissioner Zach Wasserman in any Commission vote on BPA 2-19. As described in EOSA’s prior letters, over the last several years Mr. Wasserman and his firm has represented the Applicant in connection with the Coliseum redevelopment project, which is closely related to the Development Project, raising the potential for bias in favor of the Applicant and presenting an appearance of impropriety. Mr. Wasserman has consistently recused himself from any proceedings regarding BPA 2-19, dating from the initial consideration of the amendment in early 2019 until the February 3, 2022 Commission meeting. Accordingly, as described in EOSA’s previous letters, Mr. Wasserman should be recused from any participation in a vote on BPA 2-19 under both common law and economic conflicts principles. In light of these considerations, EOSA continues to believe that Chair Wasserman’s participation in a vote on BPA 2-19 would undermine public confidence in BCDC’s decision-making process and would place any action on BPA 2-19 in jeopardy.

3. Inconsistencies with Critical Bay Plan and Seaport Plan Policies.

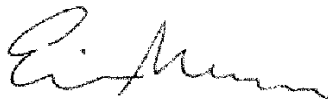
For the reasons described in EOSA’s prior comment letters, BPA 2-19 is fundamentally inconsistent with provisions of the McAteer-Petris Act (“MPA”) and existing Bay Plan and Seaport Plan policies prioritizing protection and preservation of water-related industry and port uses, including ancillary port uses. BCDC staff claim that an analysis of compatibility of BPA 2-19 with Bay Plan policies protecting Port uses and water-based industry is “unnecessary” at this stage because the purpose of the BPA 2-19 process is only “to remove the Port PUA designation on the basis that

doing so will not increase pressure to fill the Bay for port use.” RTCs, at p. 21. However, under § 66652 of the MPA, amendments to the Bay Plan “shall be consistent with the findings and declarations of policy” contained in the MPA. Furthermore, BCDC’s regulations require it to assess “the effect the proposed change [to the Bay Plan] would have on any existing finding, policy or map designation” in the Bay Plan or Seaport Plan. 14 Cal. Code Regs § 11003. Here, removing the PPU designation from Howard Terminal would undermine fundamental goals of the MPA, the Bay Plan and the Seaport Plan related to preservation of port priority areas for water-related industry, but BCDC has failed to undertake adequate analysis of these issues.

4. Conclusion.

In light of the numerous significant issues described above, and issues raised in EOSA’s prior comments and in any additional comments submitted during the public comment period, the EOSA and its members respectfully urge that the Commission is not in a legally adequate position to vote on BPA 2-19 at the June 30 Commission meeting. No timing provisions associated with AB 1191 can short-cut or avoid full and proper compliance with the requirements of CEQA and the MPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric T. Moorman". The signature is fluid and cursive, with the first name "Eric" being more prominent than the last name "Moorman".

Eric T. Moorman

EXHIBIT A

PILLSBURY WINTHROP SHAW PITTMAN LLP
RONALD E. VAN BUSKIRK (SBN 64683)
Email: ronald.vanbuskirk@pillsburylaw.com
MARGARET ROSEGAY (SBN 96963)
Email: margaret.rosegay@pillsburylaw.com
STACEY C. WRIGHT (SBN 233414)
Email: stacey.wright@pillsburylaw.com
Four Embarcadero Center, 22nd Floor
San Francisco, CA 94111-5998
Telephone: (415) 983-1000
Facsimile: (415) 983-1200

Attorneys for Petitioners, East Oakland Stadium
Alliance, et al.

MICHAEL JACOB (SBN 232214)
mjacob@pmsaship.com
PACIFIC MERCHANT SHIPPING ASSOCIATION
70 Washington Street, Suite 305
Oakland, CA 94607
Telephone: 510-987-5000

Attorney for Petitioner, Pacific Merchant
Shipping Association

ELEANOR MORTON (SBN 220407)
emorton@leonardcarder.com
LEONARD CARDER, LLP
1188 Franklin Street, Suite 201
San Francisco, CA 94109
Tel./Cell: 415-336-9201
Fax: 415-771-7010

Attorney for Petitioner, International Longshore
and Warehouse Union

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

EAST OAKLAND STADIUM ALLIANCE,
PACIFIC MERCHANT SHIPPING
ASSOCIATION, HARBOR TRUCKING
ASSOCIATION, CALIFORNIA TRUCKING
ASSOCIATION, SCHNITZER STEEL
INDUSTRIES, INC., and INTERNATIONAL
LONGSHORE AND WAREHOUSE UNION,

Petitioners,

vs.

CITY OF OAKLAND, a municipal corporation,
and CITY COUNCIL OF THE CITY OF
OAKLAND,

Case No. 22CV009325 [Related to Case No.
22CV009309 and Case No. 22CV009330]

*Assigned for All Purposes to
Hon. Brad Seligman, Dept. 23*

**[CEQA Action – Environmental
Leadership CEQA Challenge]**

**AMENDED [to include Appendix A]
PETITIONERS' JOINT OPENING
BRIEF**

Date: August 19, 2022
Time: 10:30 a.m.

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Respondents,

Dept.: 23
Judge: Hon. Brad Seligman

Action filed: April 4, 2022

**[Request for Judicial Notice Filed
Concurrently Herewith]**

OAKLAND ATHLETICS INVESTMENT
GROUP, LLC, and the PORT OF OAKLAND,
a department of the CITY OF OAKLAND,
acting by and through its BOARD OF PORT
COMMISSIONERS,

Real Parties in Interest.

UNION PACIFIC RAILROAD COMPANY,

Petitioner,

v.

CITY OF OAKLAND, a municipal corporation,
and CITY OF OAKLAND CITY COUNCIL,
and DOES 1 to 20,

Respondents,

Related Case No. 22CV009330

OAKLAND ATHLETICS INVESTMENT
GROUP, LLC, and PORT OF OAKLAND, a
department of the CITY OF OAKLAND, acting
by and through its Board of Port
Commissioners, and ROES 1-20,

Real Parties in Interest.

CAPITOL CORRIDOR JOINT POWERS
AUTHORITY,

Petitioner,

v.

Related Case No. 22CV009309

1 CITY OF OAKLAND, a municipal corporation,
2 and CITY OF OAKLAND CITY COUNCIL,
and DOES 1 to 20,

3 Respondents,
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5 OAKLAND ATHLETICS INVESTMENT
6 GROUP, LLC, and PORT OF OAKLAND, a
department of the CITY OF OAKLAND, acting
7 by and through its Board of Port
Commissioners, and ROES 1-20,
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9 Real Parties in Interest.
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Petitioners in the above-captioned related actions, being (i) East Oakland Stadium Alliance, Pacific Merchant Shipping Association, Harbor Trucking Association, California Trucking Association, Schnitzer Steel Industries, Inc., and International Longshore and Warehouse Union (collectively, “EOSA”) (Case No. 22CV009325), (ii) Union Pacific Railroad Company (“UPRR”) (Case No. 22CV009330), and (iii) Capitol Corridor Joint Powers Authority (“CCJPA”) (Case No. 22CV009309), hereby submit their joint opening brief (“JOP”).

I. INTRODUCTION.

On February 17, 2022, the Oakland City Council¹ certified an environmental impact report (“EIR”) for the Oakland Waterfront Ballpark District Project (the “Project”) at the Charles P. Howard Terminal (“HT” or “Howard Terminal”) in the Port of Oakland (the “Port”). This massive project, proposed by Real Party in Interest the Athletics Investment Group, LLC (“AIG” or “Project Sponsor”), would interfere with Port activities including railroad operations, require almost \$ 1 billion in public infrastructure financing, foster increased gentrification in West Oakland, and forever diminish the Oakland skyline and Bayfront. Most pertinent here, the Project would have significant and unavoidable environmental effects that were not properly analyzed in the EIR or mitigated by the City, in violation of CEQA.² In reliance on the deficient EIR, on March 1, 2022, the City issued the first of many Project approvals – an ordinance relinquishing to the City certain jurisdictional responsibilities of the Board of Port Commissioners “necessary to approve, permit, and administer Project Approvals on the Port Area Project Site” (“Jurisdictional Ordinance”). AR 1, 405.³

Petitioners and many members of the public commented during the environmental review process that Howard Terminal plays a vital role in transportation and maritime operations important at the Port and to the region at large. The Project would displace all current HT uses with large-scale residential and commercial development, in addition to a baseball stadium and other performance

¹ Respondents in these related actions are the City of Oakland and the City Council (collectively, “the City” or “Respondents”).

² The California Environmental Quality Act, Pub. Res. Code § 21000, *et seq.* (“CEQA”). CEQA is implemented through the State CEQA Guidelines (“CEQA Guidelines”), 14 Cal. Code Regs. § 15000, *et seq.*, and the Oakland Municipal Code (“OMC”), § 17.158.140, *et seq.*

³ Citations to the Record of Proceedings certified by the City are as follows: “AR [page number].”

1 venues. The Project would bring tens of thousands of people into an industrial, working seaport
2 area, with very limited ingress and egress including adjacent complicated railroad operations,
3 creating adverse transportation and land use impacts, as well as unmitigated impacts to navigation
4 and transportation safety.

5 The City committed numerous violations of CEQA in certifying the EIR and approving the
6 Jurisdictional Ordinance. First, the EIR systemically deferred CEQA-required analyses, disclosure
7 and mitigation in a number of key environmental areas to future agency plans, actions and approvals,
8 depriving the public of full information on the Project's impacts before any approvals are granted.
9 Second, the EIR's discussion of many individual impact areas is deficient, including with respect to
10 air quality and other impacts associated with displacement of all current heavy freight and industrial
11 transportation uses at the HT site for maritime support, including trucking and related intermodal
12 activities vital to the seaport; railroad operations and public safety (including safety risks and other
13 impacts related to crossing the heavily-used, at-grade railroad tracks bounding the Project site)⁴;
14 hazardous materials and remediation of the heavily-contaminated Project site; analysis of air quality
15 and greenhouse gas ("GHG") impacts; failure to evaluate cumulative impacts (including on the same
16 Project site); and many others. Third, the public and other agencies were denied their rights under
17 CEQA to review and comment because the Project Sponsor and the City continued to publish
18 significant new information bearing on Project impacts *after* the close of the public comment period
19 on the Draft EIR, thus avoiding the City's duty under CEQA to provide written public responses.

20 Importantly, the EIR also fails to adequately address and compare alternatives to the
21 Project—including an alternative location—that would lessen or avoid the significant environmental
22 impacts of trying to shoehorn this massive development into the working HT seaport area. Further,
23 the City adopted a Project alternative (Alternative 3) that provides for a *single* grade-separated
24 overcrossing over the surrounding railroad tracks without adequate environmental review.⁵

25 _____
26 ⁴ The railroad-related impact issues are discussed in detail in UPRR's and CCJPA's argument (*see*
27 Section IV.D). The EOSA petitioners join in these arguments concerning CEQA deficiencies.

28 ⁵ While the City made a purported finding that the impacts of Alternative 3 were analyzed in the EIR
"in sufficient detail" (AR 220, 278), the EIR's cursory 14-page summary wholly fails to quantify or
fully evaluate the significant adverse environmental impacts of Alternative 3, as explained below.

1 Based on these and many other serious deficiencies, Petitioners respectfully request the Court
2 to order Respondents to decertify the EIR and rescind the Jurisdictional Ordinance, and to refrain
3 from considering any project approval until the City has corrected these deficiencies and recirculated
4 a revised Draft EIR for additional public review and comment.

5 **II. STATEMENT OF FACTS AND PROCEDURAL HISTORY.**

6 **A. The Proposed Ballpark Development Project and Howard Terminal.**

7 The Project Sponsor⁶ proposes a massive redevelopment project on approximately 55 acres
8 that comprise the Howard Terminal and adjacent parcels. The development includes a 35,000-
9 person capacity baseball stadium and event venue (with approximately 354 games, concerts and
10 other events per year), together with (i) 3,000 residential units in several 600-foot high-rise buildings
11 (exceeding the height of any building existing in Oakland today); (ii) 1.5 million square feet of
12 office space; (iii) 270,000 square feet of retail uses; (iv) an approximately 50,000 square-foot 3,500-
13 seat indoor performance venue for “year round” events; and (v) 280,000 square feet of hotel space
14 with up to 400 rooms and conference facilities in one or more buildings, and a maximum of
15 approximately 8,900 parking spaces.⁷ AR 1, 214, 751 (Table 3-2, Annual Events), AR 89193 (citing
16 Draft EIR).⁸ Among other things, the Project would require significant public funding for necessary
17 on-site and off-site infrastructure improvements estimated at \$855 million or more. AR 222.

18 In 2018, AIG selected Howard Terminal as its “preferred” site (AR 55), despite the
19 franchise’s long history and much more available land at the Oakland Coliseum location.⁹ The HT
20 site includes approximately 50 acres owned and/or jurisdictionally controlled by the Port (the “Port
21

22 ⁶ City documents name the Project Sponsor as “Oakland Athletics Investment Group, LLC d/b/a The
23 Oakland Athletics.” *E.g.*, AR 64420.

24 ⁷ Oakland Waterfront Ballpark District Project – ER18-016, Draft EIR (“DEIR”), State
25 Clearinghouse No. 2018112070 (AR 586-7447).

26 ⁸ The Project also proposes to include up to 18.3 acres of open spaces (AR 1). However, as
27 discussed herein, that area would be significantly reduced for an expanded Turning Basin Project
28 currently under CEQA review by the Port of Oakland.

⁹ In sharp contrast to the smaller, constrained HT site, the Coliseum site is over 150 acres, highly
accessible via I-880, BART, AC Transit, Capitol Corridor and the Oakland Airport with only minor
environmental contamination. In July 2017, AIG was investigating three sites for a potential
baseball stadium, including the existing Coliseum site and Howard Terminal. AR 70716. By
January 2018, however, AIG had contacted the Port to discuss pursuing the Howard Terminal. *Id.*

Area”)¹⁰ along the Inner Harbor of the Oakland-Alameda Estuary, including Howard Terminal, which is currently used by the Port for maritime-related uses under a City General Industrial land use designation. AR 40, 54, 222, 70738 (illustrative site map), AR 66421. The remaining five acres in the Project site are privately owned. AR 54.¹¹

Howard Terminal is a uniquely situated water-dependent use. It has been devoted for over 100 years to serving maritime and transportation industries associated with large volumes of incoming and outgoing goods and materials to/from the United States and foreign markets. EOSA Pet., ¶ 18. These activities are supported by an intensive, on-the-ground integrated transportation system – including railways, roadways for heavy trucking, and large marine terminals that berth, load and unload oceangoing vessels on a constant basis. *Id.*; AR 89198. Current uses at Howard Terminal itself include heavy truck parking and layover, container storage, drayage and staging, longshoreperson training, occasional berthing of vessels for repair or storage, relief space to avoid queuing and impacts of heavy trucks on local street systems, lay-berthing for oceangoing vessels, and container terminal services helping to alleviate supply chain issues for the agricultural sector. AR 222, 89198. The Project would displace all of these water and transportation dependent uses. Howard Terminal is bound by active Union Pacific Railroad tracks to the north, Schnitzer Steel’s heavy metal recycling facility to the west (AR 1), and a busy shipping channel to the south, including the Inner Harbor Turning Basin to the southwest. *See* AR 64425.

Indeed, in order to protect the growth of marine cargo and vessel activity,¹² the Port is moving forward with an EIR for the “Oakland Harbor Turning Basin Widening Project” (“TBP”)

¹⁰ The Port of Oakland is a City department governed by the Board of Port Commissioners (“Port Board”). AR 62. Under the City Charter, the Port Board has the “complete and exclusive power” to “control and manage Port Areas.” *Id.* However, the Project is also subject to City Council powers under the Charter, including consent to residential use in a Port Area. *Id.*, AR 67-68.

¹¹ The Project site also encompasses a Port-owned surface parking lot, an existing fire station, and the historic Pacific Gas & Electric station. AR 15888. The site is one mile from any BART station and about one-half mile from an Amtrak/Capital Corridor train station. A complicated railroad track system runs adjacent to the northern boundary with several at-grade crossings. AR 15889.

¹² The total economic value of the marine cargo and vessel activity at the Oakland Seaport in 2017 was estimated at \$60.8 billion and includes jobs with the ILWU and truckers serving marine terminals, with a “high percentage” of containerized cargo moving to and from the marine terminals by truck. AR 63887-63888, 63890, 63898.

1 which will affect portions of the HT Project site. Although the Project EIR describes this as a
2 “Maritime Reservation Scenario” that would affect 10 acres in the southwestern corner of the Project
3 site to accommodate large vessels within Oakland’s Inner Harbor (AR 86390-86391, 88483-88484),
4 making Project-related development even “more dense” (AR 752), the City avoided any
5 environmental review of the cumulative impacts of the TBP taken together with the HT Project.¹³

6 Serious physical limitations constrain access to the Project site, including surrounding at-
7 grade railroad tracks and heavy rail usage; yet the City adopted a project “alternative” that proposes
8 only a *single* grade-separated overcrossing, for vehicles only, at one of two locations. AR 64425,
9 219-220.¹⁴ Indeed, a City Agenda Report noted that *even absent* the proposed Project and its
10 significant and unavoidable permanent impacts, “safer separation and protection of Port-serving rail
11 and truck routes, and stronger bike, pedestrian, and transit connections” are “needed now.” AR 42.¹⁵
12 The EIR did not fully analyze a full grade-separation alternative with multiple crossings.

13 **B. Project Applications Prior to Draft EIR.**

14 In August 2018, AIG submitted a zoning pre-application request to the City. AR 62908.¹⁶
15 Thereafter, AIG applied to the City for environmental review (11/18/2018); and filed an application
16 for a General Plan amendment and rezoning (5/3/2019), including a summary of community and
17 stakeholder input received (AR 70790-70846) that raised significant transportation and accessibility

18 ¹³ The Final EIR stated that because “an expanded turning basin is still being assessed in terms of
19 feasibility, it is not considered a cumulative project in this Draft EIR.” AR 11333. However, the
20 fact that a feasibility study (which was underway) and a notice of preparation of an EIR had not yet
21 been released (AR 11333), did not excuse the City from treating the Turning Basin Project as a
22 reasonably foreseeable cumulative project and analyzing environmental impacts. *See* Section
23 IV.E.7.

24 ¹⁴ The Alternative 3 grade-separated crossing would alter circulation patterns and impact adjacent
25 parcels. AR 220. It would also require additional excavation for utility relocation and construction,
26 property acquisition, and the blocking of driveways. *Id.*

27 ¹⁵ A July 1, 2021 City Agenda Report claims that the Project would “accelerate and fund” (through
28 tax increment funding, and State and Federal transportation funds, if available) “safety and
infrastructure improvements” that are “needed now,” including “protection against” sea level rise,
anti-displacement measures, affordable housing, “safer separation and protection of Port-serving rail
and truck routes,” and transit connections. AR 42. However, as discussed below, the Project’s own
significant environmental impacts were not adequately disclosed, analyzed or mitigated; and many
residents object to diversion of such public funding to benefit a private project.

¹⁶ At that time, the Project was to include “potential” vehicular and pedestrian “elevated connections
over the railroad tracks and improvements to at-grade crossings” as well as new “last mile” transit
connectivity, including an aerial tram from BART and “expanded shuttle service.” AR 62904.

1 concerns, including rail crossings and truck traffic (AR 70816-70818, 70823). After the Port Board
2 approved a term sheet for potential disposition of Howard Terminal “to the A’s” through various real
3 estate agreements (“Port ENTS Resolution” No. 19-32, 5/13/2019) (AR 6, 61, 400),¹⁷ AIG applied
4 for a Development Agreement (9/16/2019) (AR 77198); a planned unit development (“PUD”)
5 approval (2/26/2020) (AR 40-41, 79111-79116, 86370-86373); and a tentative tract map and revised
6 PUD (7/19/2021) (AR 87688).¹⁸ On July 7, 2021, the City’s Community and Economic
7 Development Committee held a study session addressing the need for an infrastructure financing
8 district (“IFD”). AR 6. The City also sought “confirmation” of development of critical Port Seaport
9 Compatibility Measures (“SCMs”) (a “set of measures, designs, and operational standards to ensure
10 that the Project does not impact or interfere with the Port’s use or operations”) needed “prior to any
11 final Project approvals by Council” (AR 7, 62).¹⁹ Additionally, noting the importance of toxics
12 remediation, the City sought a “commitment” to “track implementation” of DTSC remediation
13 requirements. AR 7, 209.

14 C. CEQA Review Process.

15 On November 30, 2018, the City issued a Notice of Preparation (“NOP”) for the EIR. AR

16 ¹⁷ See [https://www.portofoakland.com/wp-content/uploads/Howard-Terminal-microsite-Term-](https://www.portofoakland.com/wp-content/uploads/Howard-Terminal-microsite-Term-sheet.pdf)
17 [sheet.pdf](https://www.portofoakland.com/wp-content/uploads/Howard-Terminal-microsite-Term-sheet.pdf). The term sheet enabled AIG to submit project applications to the City and contemplated
18 that the City Council would consider a General Plan amendment and Project-specific land use
19 regulations, including zoning amendments and design review. AR 61, 400. The Port Board
20 emphasized that the Project must be conditioned on “appropriate infrastructure investments, and
21 operations planning and implementation” for the Project to be compatible with the seaport’s cargo
22 and freight activities. AR 61. In furtherance of the Port ENTS Resolution, on January 21, 2020, the
23 City Council authorized the City Administrator to execute a “non-binding” Memorandum of
24 Understanding Between the City and Port Regarding Howard Terminal Oakland A’s Ballpark
25 Project regarding a “shared regulatory framework” for the Project (the “City-Port MOU”)
(Resolution No. 87998 C.M.S.). AR 6, 41, 400.

22 ¹⁸ The City has always known that the EIR would serve as the lynchpin for multiple discretionary
23 approvals at the state and local levels. See AR 41. These include an option agreement and other real
24 estate agreements with the Port; a Port building permit; an approved remedial action plan from the
25 Department of Toxic Substances Control (“DTSC”); a State Lands Commission-approved trust
26 exchange agreement; a major permit from the San Francisco Bay Conservation and Development
27 Commission (“BCDC”) (AR 40-41); and BCDC amendments to San Francisco Bay seaport plans
28 that reserve Howard Terminal for seaport uses.

26 ¹⁹ The SCMs “address land use compatibility, health and safety, transportation safety, and
27 congestions considerations.” AR 63-64, 66. However, SCMs were not complete or disclosed in
28 final form to the public during the environmental review process, and were not considered or
adopted as enforceable mitigation measures for the Project. See AR 69 (“certain” SCMs “included”
in DEIR).

1 55, 224, 64419-64425. The City’s Landmarks Preservation Advisory Board (“LPAB”) and the
2 Planning Commission held EIR meetings in December 2018 during the 45-day scoping comment
3 period. AR 224. Thereafter, a Draft EIR (“DEIR”) was prepared, but the release was delayed
4 pending the Governor’s certification under A.B. 734.²⁰ AR 55. On February 26, 2021, the City
5 finally released the DEIR for a 45-day public comment period (later extended to April 27, 2021).
6 AR 6, 55, 86390, 86574. The City held a DEIR workshop on March 6, 2021 (AR 55-56, 224); an
7 LPAB meeting on March 22, 2021; and a Planning Commission hearing on April 7, 2021 (AR 224).

8 From the outset, the Project objectives were narrowly drawn—to construct a “waterfront”
9 ballpark, to create a “waterfront destination” and “waterfront district,” to “[c]onstruct a new ballpark
10 for the Oakland Athletics on Oakland’s waterfront,” and to increase “public use and enjoyment of
11 the waterfront.”²¹ These were plainly designed to align only with AIG’s pre-determined HT location
12 and preclude any meaningful consideration of inland locations (AR 221), even though on paper the
13 DEIR included Alternative 2 for a new ballpark at the existing Oakland Coliseum site. Alternative 2
14 would have the “same mix and density of uses that are proposed with the Project,” but result in
15 significantly fewer environmental impacts than at the HT site. AR 222-223. It was recognized that
16 Alternative 3 (single vehicle grade separation at HT) posed serious feasibility constraints to
17 construction within the railroad corridor and public-right-of-way, and would require acquisition of
18 multiple parcels, restrict existing driveway access, and require “[s]ubstantial utility relocations” (AR
19 223), issues not posed by the Coliseum alternative.

20 During the DEIR public comment period, the City received almost 500 comments expressing
21 a multitude of environmental and other concerns. AR 56, 224. Petitioners submitted detailed

22 ²⁰ AB 734 (2018), codified at CEQA § 21168.6.7, provides for Governor certification of the Project
23 allowing streamlined judicial review if the Project meets several conditions (AR 55), and requires a
24 “comprehensive package of community benefits,” which may include, among other things,
25 transportation infrastructure and increased frequency of public transit (AR 207). AIG was also able
26 to have two additional special purpose bills passed for its Project (AB 1191 relating to exchange of
27 public trust lands (Chap. 752, Stats. 2019) and SB 293 relating to an enhanced infrastructure
28 financing district (Chap. 762, Stats. 2019)).

²¹ The “objectives” went so far as to narrowly particularize that the “waterfront district” should have
“strong connections to Jack London Square, West Oakland, and Downtown Oakland and should
extend access to the waterfront from those areas, taking advantage of the “project site’s” proximity.
AR 221.

1 comments identifying serious deficiencies, including improper deferral of CEQA-required analyses
2 and mitigation to future agency plans, actions and approvals; impacts related to vessel navigation,
3 public health and safety; land use conflicts including incompatibility of Project-related uses with
4 Port operations and railroad systems; and many others.²² The comments also called out the DEIR’s
5 failure to properly address and compare alternatives to the Project that could lessen or avoid
6 environmental impacts.

7 Following the close of the comment period, the City and Project Sponsor continued over the
8 next nine months to add significant new studies and information to the record, ultimately including
9 nearly 1,000 pages of voluminous technical reports and analyses of hazardous materials, air quality,
10 water quality, rail safety and other important subjects. This was all done without the public right of
11 review and comment provided under CEQA. AR 134223, 134233-134237. When Petitioners
12 objected that such significant new information required the City to revise and recirculate the DEIR
13 prior to certification (AR 89197-89198), the City claimed it merely made “insignificant changes to
14 an adequate DEIR” and declined to recirculate the DEIR because “[n]o information” indicated that
15 the DEIR was “inadequate or conclusory” or that “the public was deprived of a meaningful
16 opportunity to review and comment on the DEIR.” AR 227. Instead, the City moved forward and
17 released the Responses to Comments/Final EIR (“FEIR”) on December 17, 2021, including
18 “Consolidated Responses” on certain topics. AR 214, 88483. Both with the FEIR itself and after its
19 release, the City and AIG continued to submit new information to the record. AR 134223.

20 On January 19, 2022, the Planning Commission held a public hearing to consider public
21 comments and voted to recommend that the City Council certify the EIR. AR 215. On February 17,
22 2022, the Council held a special meeting to consider the FEIR and adoption of CEQA findings. AR
23 89054. Both prior to and during these meetings, numerous commenters, including Petitioners,
24 argued that the EIR failed to meet the requirements of CEQA in numerous respects, rendering it
25

26 ²² See AR 8249-8274 (EOSA letter), AR 9425-9622 (AES comment letter and technical reports), AR
27 9882-9953 (PMSA letter), AR 9693-9701 (Industry Coalition letter), AR 9639-9641 (Harbor
28 Trucking Association letter), AR 8231 (Northern Ca. District Council of ILWU letter), AR 7699-
7701 and 9784-9808 (UPRR letters), AR 8279-8291 (CCJPA letter).

1 legally inadequate as an environmental disclosure document. *See, e.g.*, AR 134220-134254 (EOSA
2 letter, attachments), AR 89278-89287 (PMSA letter, attachments). Nonetheless, the Council voted
3 (6-2) to adopt Resolution No. 89045 certifying the Project EIR and adopted CEQA findings for the
4 selected Project Alternative (Alternative 3), rejected other alternatives and “certain mitigation
5 measures” as purportedly “infeasible,” and adopted a statement of overriding considerations and a
6 mitigation monitoring and reporting program. AR 1, 214, 219.

7 The City found that although the single overcrossing with Alternative 3 would “reduce”
8 transportation hazards at railroad at-grade crossings, those impacts would remain significant and
9 unavoidable without additional mitigation. AR 230. The findings provide cursory statements
10 concerning impacts associated with construction and operation of the grade separation and
11 associated (extensive) utility relocation. For example, the findings state that the severity of
12 construction noise and vibration impacts “would potentially increase,” but those impacts (and any
13 increased operational impacts to the identified sensitive receptor) are not quantified and analyzed
14 because the impacts “would remain significant and unavoidable,” the same as without the grade
15 separation. AR 229, 271.²³ The City also identified new significant and unavoidable impacts related
16 to air emissions during construction, noise and vibration, cultural resources, and others. AR 229-30.

17 Concurrently with EIR certification, the City Council adopted Resolution No. 89044,
18 “reconfirming” the City’s “intent to take action” on “freight compatibility” and community benefits
19 concurrently with or prior to approval of a Development Agreement for the Project. AR 206-207.
20 The Council directed the City Administrator and the Port to “identify any necessary
21 transportation/infrastructure projects” that may have the potential to “interact” with freight
22 compatibility and to make recommendations. AR 210. That analysis was improperly excluded from
23 the EIR and Respondents violated CEQA by failing to adequately analyze and mitigate the Project’s
24 public safety risks, including impacts caused by the number of motor vehicles, bicycles, and

25 _____
26 ²³ That is insufficient under CEQA. *See Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 514
27 (“*Sierra Club*”); *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60
28 Cal.App.4th 1109, 1123 (EIR’s acknowledgement that an impact would be significant and
unavoidable, even with mitigation measures, was inadequate and a *more detailed analysis of the
magnitude of the adverse impact was required*).

1 pedestrians that must cross heavily-trafficked at-grade railroad crossings to access the Project site.²⁴

2 **D. The Jurisdictional Ordinance.**

3 As noted, the Project Sponsor sought a city ordinance approving the Board of Port
4 Commissioners' relinquishment to the City Council of jurisdictional responsibilities "necessary to
5 approve, permit, and administer Project Approvals on the Port Area Project Site." AR 1, 405.
6 Petitioners and others opposed AIG's application. *See* AR 89217-89228 (PMSA letter). The City
7 Council conducted a first reading on February 17, 2022, relying on the EIR, and adopted the
8 Ordinance (No. 13681) following a second reading on March 1, 2022. AR 1, 404. Under the
9 Ordinance, the Port retains responsibility for a Port Building Permit and real property agreements
10 necessary for the Project. AR 401. On March 3, 2022, the City filed a Notice of Determination
11 ("NOD") under CEQA advising that the City had approved the Jurisdictional Ordinance in reliance
12 on the EIR and made CEQA findings, including that the Project will have significant and
13 unavoidable effects on the environment. AR 1-2.²⁵

14 **E. Case History.**

15 On April 4, 2022, Petitioners timely filed their petitions for writ of mandamus ("Petition" or
16 "Pet.") challenging and seeking to set aside Resolution No. 89045 certifying the EIR, and the
17 Jurisdictional Ordinance. *See* EOSA Pet. ¶ 1, *et seq.* The City certified the record of proceedings to
18 the Court on April 12, 2022. The City, the Port, and AIG filed their answers on April 18, 2022. On
19 May 31, 2022, this Court held a Case Management Conference and set a common briefing and
20 hearing schedule in all three cases. The Court ordered the cases related on June 23, 2022.

21 **III. STANDARD OF REVIEW.**

22 Judicial review of an agency's CEQA compliance extends to whether there was a prejudicial
23 abuse of discretion – *i.e.*, if the agency fails to proceed "in a manner required by law" or the

24 ²⁴ Among other things, CCJPA runs 30 weekday and 22 weekend passenger trains on the UPRR
25 mainline tracks, which run at-grade along the north boundary of the Project site. CCJPA Case
26 Petition, ¶ 22. The UPRR rail line also accommodates up to 15 freight trains per day and additional
27 passenger trains operated by Amtrack. *Id.*, ¶ 25. A fundamental EIR deficiency is failure to deal
adequately with these issues.

²⁵ The NOD listed the Port of Oakland, acting by and through its Board of Port Commissioners, as a
Real Party in Interest (AR 1), and accordingly the Port was named as a Real Party in these actions.

determination is not supported by substantial evidence. CEQA § 21168.5; *Sierra Club, supra*, 6 Cal.5th 502, 511. Whether an agency has followed applicable law is subject to independent judicial review. *Sierra Club* at 512 (courts apply *de novo* review, “scrupulously enforcing all legislatively mandated CEQA requirements”). Whether an EIR fails to address an issue or omits relevant information is also subject to *de novo* review. *Id.* at 514 (“[W]hether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question.”); *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 935 (“Whether an EIR has omitted essential information is a procedural question subject to *de novo* review.”). *De novo* review also applies to mixed questions of law and fact requiring a determination whether statutory criteria were satisfied—*i.e.*, adequacy of discussion of environmental impacts. *Sierra Club, supra*, 6 Cal.5th 512. In contrast, substantial evidence review applies to an agency’s factual findings or where factual issues “predominate.” *Id.*

A “prejudicial abuse of discretion” occurs if, as here, “the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the goals of the EIR process.” *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1391 (“*Association of Irrigated Residents*”). Such error is deemed prejudicial “regardless whether a different outcome would have resulted if the public agency had complied with the disclosure requirements.” *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1198 (“*Bakersfield Citizens for Local Control*”).

IV. ARGUMENT.

A. Legal Standards.

As the Lead Agency under CEQA, the City has the legal duty to prepare and certify a legally sufficient EIR for the Project. *See* CEQA § 21100; CEQA § 21002.1 (“The lead agency shall be responsible for considering the effects, both individual and collective, of all activities involved in a project.”); *see also* CEQA Guidelines § 15090.5. An EIR must “provide public agencies and the public in general with *detailed information*” about a project’s likely effects on the environment, ways the significant impacts might be minimized, and project alternatives. *Sierra Club, supra*, 6

1 Cal.5th at 511-512 (emphasis added). This includes the duty to undertake reasonable investigation
2 of environmental impacts and mitigation, as well as project alternatives. *Id.*

3 The lead agency also must “adopt feasible mitigation measures or project alternatives to
4 reduce [potentially significant environmental impacts] to insignificance.” *Center for Biological*
5 *Diversity v. Department of Fish & Wildlife* (2015) 62 Cal. 4th 204, 231. Adopting a statement of
6 overriding considerations for significant and unavoidable impacts does not negate the statutory
7 obligation to implement feasible mitigation measures. “Even when a project’s benefits outweigh its
8 unmitigated effects, agencies are still required to implement all mitigation measures unless those
9 measures are truly infeasible.” *Sierra Club, supra*, 6 Cal.5th at 524-526 (approval of a project that
10 did not include a feasible mitigation measure “would amount to an abuse of discretion.”).

11 Here, the City abused its discretion by, among other things, failing to include “relevant
12 information” that in turn precluded “informed decision-making and informed public participation,
13 thereby thwarting the goals of the EIR process.” *Association of Irrigated Residents, supra*, 107
14 Cal.App.4th at 1391. Such error is deemed prejudicial “regardless whether a different outcome
15 would have resulted if the public agency had complied with the disclosure requirements.”
16 *Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at 1198; AR 227 (the EIR must be
17 “adequate to support all actions in connection with approval of the Project and all other actions and
18 recommendations necessary for approval of the Project”).²⁶

19 The City also failed to adopt all feasible mitigation measures and improperly deferred
20 formulation of numerous mitigation measures contrary to CEQA Guidelines § 15126.4(a)(1)(B). *See*
21 *also Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 94
22 (“CBE”) (deferral of mitigation proper only where mitigation is known to be *feasible* and the agency
23 “commit[s] itself” to measures that *will* “satisfy specific performance criteria articulated at the time
24 of project approval” [emphasis added]); *Preserve Wild Santee v. City of Santee* (2012) 210

25
26 ²⁶ As noted, the City anticipated that responsible agencies under CEQA “will rely in whole or in part
27 on the City’s EIR.” AR 56, 402. Such agencies include the Port, the State Lands Commission,
28 DTSC, BCDC, CPUC, and others. *Id.* But before these agencies can rely on the EIR, the City must
be required to revise and recirculate the DEIR for additional public comment and review.

1 Cal.App.4th 260, 280-81 (“[i]mpermissible deferral of mitigation measures occurs when an EIR puts
2 off analysis or orders a report without either setting standards or demonstrating how the impact can
3 be mitigated in the manner described in the EIR” [citation omitted]).²⁷

4 **B. The EIR Improperly Defers Analysis and Mitigation of Numerous Impacts.**²⁸

5 A major concern with the EIR is its systemic deferral of analysis and mitigation regarding the
6 Project’s potentially significant environmental impacts. Rather than provide this necessary
7 information, the EIR too often “punts” to future plans, reports, and approvals on a number of
8 important topics, including in relation to (i) hazardous materials, (ii) hydrology and water quality,
9 (iii) geology and soils, (iv) waterfront safety, (v) wind, and (vi) GHG emissions. In essence, the EIR
10 takes a “future study” and “plan to plan” approach that deprives the public and public agencies of
11 required information needed before any Project entitlements are approved. The scale of deferral in
12 this case precluded informed decision-making and public participation in violation of CEQA.²⁹

13 **1. Improperly Deferred Mitigation.**

14 Generally, the “[f]ormulation of mitigation measures should not be deferred until some future
15 time.” CEQA Guidelines § 15126.4(a)(1)(B). CEQA allows specific details of a mitigation measure
16 to be developed after project approval only when it is impractical or infeasible to include those
17 details in the EIR, and only then if the lead agency: (1) commits itself to the mitigation, (2) adopts
18 “specific performance standards” the mitigation measure will achieve, and (3) identifies types of
19 potential actions that can feasibly achieve compliance with that standard. *Id.* In contrast, an agency
20 “goes too far” when it simply “requires a project applicant to obtain a [] report and then comply with
21 any recommendations that may be made in the report.” *Endangered Habitats League, Inc. v. County*

22
23 ²⁷ In addition to preparing an adequate EIR, the City must adopt sufficient CEQA findings (CEQA
24 § 21081; CEQA Guidelines §§ 15091-15092), a legally adequate mitigation program (“MMRP”)
(CEQA § 21081.6), and a Statement of Overriding Considerations supported by substantial evidence
in the record (CEQA Guidelines §15093).

25 ²⁸ EOSA petitioners submit the arguments in this Section IV.B and Sections IV.C, and IV.E-G and
26 join in the arguments of UPRR and CCJPA, which are presented in Section IV.D. UPRR and
CCJPA also join in EOSA’s recirculation argument (Section IV.G).

27 ²⁹ Petitioners and other commenters raised the issue of deferral of analysis and mitigation in
28 comments on both the DEIR and FEIR. *See, e.g.*, AR 8251, 8254-8256; AR 11950, 11963, 11972,
11983; AR 12078-12081; AR 12281; AR 12436-12437; AR 89196-89197.

1 of Orange (2005) 131 Cal.App.4th 777, 793.³⁰ As described further below with many of the
2 individual Project impacts, the EIR impermissibly leaves formulation of specific mitigation
3 measures until after Project approval, while failing to commit the City to specific performance
4 standards to ensure effective mitigation. These errors are prejudicial as they precluded informed
5 decision-making and public participation. *San Joaquin Raptor Rescue Center v. County of Merced*
6 (2007) 149 Cal.App.4th 645, 685-86 (“*San Joaquin Raptor*”).

7 **2. Improperly Deferred or Omitted Analysis.**

8 In addition to deferring formulation of critical mitigation measures, the EIR defers *analysis*
9 of potentially significant environmental impacts for future study by other public agencies, in
10 connection with anticipated future plans, reports, findings, approvals and/or permits. Numerous
11 examples of deferred analysis are identified in the Terraphase Engineering Technical Memorandum
12 submitted by EOSA (“Terraphase Memo”) (AR 89133-89141), including (i) the absence of a site-
13 specific pollutant source assessment, remedial alternatives analysis, and a Creek Protection analysis
14 for impacts to the Inner Harbor; (ii) deferral of analysis to future remedial action plans and
15 agreements and a further geotechnical report; and (iii) deferral of analysis of dewatering and
16 liquefaction impacts, among others. Additional “deferrals” of critical analyses are identified in the
17 Foulweather Consulting Memorandum (“Foulweather Memo”) (AR 89129-89132) regarding an air
18 quality assessment associated with displacement of current HT uses, and in the Montrose Report
19 regarding additional wind analysis and storm water systems and run-off (AR 89121, 89124-89125).
20 CEQA is not satisfied by an EIR that—like here—“ignores or assumes a solution” to a problem or
21 states that information “will be provided in the future.” *Vineyard Area Citizens for Responsible*
22 *Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 429, 431.

23 **C. The EIR’s Deficient Analysis of Howard Terminal Displacement Impacts.**

24 ³⁰ See also *CBE, supra*, 184 Cal.App.4th at 94 (deferral of mitigation proper only where mitigation is
25 known to be *feasible* and the agency “commit[s] itself” to measures that *will* “satisfy specific
26 performance criteria articulated at the time of project approval” [emphasis added]); *Preserve Wild*
27 *Santee v. City of Santee, supra*, 210 Cal.App.4th at 280-81 (“[i]mpermissible deferral of mitigation
28 measures occurs when an EIR puts off analysis or orders a report without either setting standards or
demonstrating how the impact can be mitigated in the manner described in the EIR” [citation
omitted]).

1 Many comments pointed out that the DEIR improperly omitted an analysis of environmental
2 impacts associated with the Project's displacement of all existing heavy trucking and other industrial
3 uses at Howard Terminal. *See, e.g.*, AR 8256-8259, 89198-89199.³¹ The City made no serious
4 effort to identify where those displaced activities would go, or to evaluate the environmental
5 consequences of such displacement, including air quality and other impacts associated with
6 increased truck queuing, and congestion. These deficiencies are not remedied by the FEIR's
7 Consolidated Response 4.5 ("Truck Relocation") (AR 11337-11355) or any individual responses.
8 Fundamentally, the FEIR continues to avoid analysis of truck relocation impacts, claiming such
9 relocation is too "speculative" to address, and ignores the unavailability of the one site the City
10 assumed could accommodate at least some of the displaced Howard Terminal uses.³²

11 **1. The EIR Fails to Adequately Assess Air Quality and Transportation**
12 **Displacement Impacts.**

13 The EIR recognizes that Howard Terminal is currently used for a variety of marine-support
14 activities, including heavy truck parking and layover, container storage and drayage, office uses, and
15 other uses. AR 718, 11339. It also acknowledges the Project will completely displace all uses at the
16 site, and such activities "are assumed to move to other locations" within the Seaport, the City, or the
17 region. AR 776, 11341. However, the EIR does not analyze or mitigate the foreseeable impacts of
18 such relocation, and thus underestimates the Project's overall transportation and air quality impacts.

19 Initially, the EIR fails to disclose the lack of sufficient capacity at the Port to absorb
20 displaced truck parking and other activities. The EIR claims that current HT truck parking could
21 relocate to a 15-acre Roundhouse parking facility at the Port, or to the former Oakland Army Base

22 ³¹ In addition to Petitioners, public agencies commented on the inadequacy of the EIR's assessment
23 of displacement of current Howard Terminal operations. *See, e.g.*, BAAQMD (AR 11675, noting
24 concerns "about potential impacts to West Oakland residents of rerouted truck trips and/or parking if
25 current truck parking at Howard Terminal is eliminated"); BCDC (AR 11696, requesting further
26 analysis of cumulative impacts related to displacement of truck parking from HT); CARB (AR
27 11783, voicing "acute concern" regarding "the potential overflow of displaced truck parking tenants
28 into the West Oakland community due to space and availability constraints both during and after
Project construction"); and CalTrans (AR 11743-44, requesting analysis of truck parking demand).

³² Although the DEIR and FEIR present no specific displacement plan or analysis, Port
representatives recently testified to BCDC that they had a "solid plan" to relocate parking to the
"outer harbor." <https://bcdc.ca.gov/minutes/2022/06-02-audiotranscript-part-1.html>.

1 (“OAB”).³³ AR 11341, 776. Based on this assumption, the EIR concludes that “truck drivers or
2 businesses currently parking at Howard Terminal should find sufficient overnight parking in the
3 Seaport or the former OAB.” AR 777.³⁴ However, Petitioners and others provided evidence that
4 there is currently *not sufficient capacity* at the Roundhouse to accommodate relocation of current
5 truck parking and other activities from Howard Terminal. *See, e.g.,* Foulweather Memo, at AR 9463
6 (noting that there would be over 800 displaced long-term users at Howard Terminal, with less than
7 120 available long-term parking stalls at the Roundhouse). The City’s reliance on the Roundhouse
8 property as a site for potential relocation of truck parking from Howard Terminal is not supported by
9 substantial evidence (nor does the City analyze the impacts of displacing existing activities there).³⁵

10 The EIR also fails to analyze reasonably foreseeable air quality and transportation impacts
11 associated with relocation of truck parking and other ancillary activities from Howard Terminal.
12 The EIR notes that existing uses at Howard Terminal “are assumed to move to other locations within
13 the Seaport (including the Roundhouse), the City, or the region where their uses are permitted under
14 applicable zoning and other regulations.” AR 776, 928. This is merely a tautological statement; it
15 reflects no real-world effort to identify actual, reasonable alternative locations within the Port,
16 Oakland, or elsewhere, or how far from the Port these marine-reliant uses would have to be

18 ³³ The City and Port are each required to provide 15 acres of truck parking and ancillary maritime
19 services as part of the OAB redevelopment. AR 0000776-777. The Port has designated the
20 Roundhouse area as meeting this requirement, and the City has designated “the approximately 15-
21 acre site” at the former OAB. *Id.*

22 ³⁴ At the same time, the EIR notes that some truck-related activities such as container storage *likely*
23 *cannot* relocate within the seaport, and those activities would need to relocate outside the seaport “in
24 areas of the City or the region where such uses are permitted by zoning.” AR 928.

25 ³⁵ Numerous public agencies raised similar concerns about the availability of the Roundhouse and
26 other locations in the Seaport to accommodate displaced activity from Howard Terminal. *See* AR
27 11675 (BAAQMD letter, noting “the Roundhouse facility is already at capacity and there are no
28 known plans to develop new or additional parking facilities”); AR 11696 (BCDC letter, noting that
many of the locations at the port where truck parking and other ancillary uses currently take place—
including the Roundhouse—are anticipated to develop as active marine terminals); AR 11743-11744
(CalTrans letter, noting “significant shortage of truck parking options” at the Port, and requesting
further analysis and mitigation); AR 11783 (CARB letter, noting the DEIR “provides insufficient
evidence that displaced Howard Terminal tenants will find parking availability that does not
negatively impact the West Oakland community and therefore requests that the Project Sponsor
provide additional evidence beyond speculation to ensure tenant relocation does not negatively
impact the community”). The City responded to most of these comments by referring to the
Consolidated Response on Truck Parking, which is deficient for the reasons described herein.

1 displaced. While the EIR states that the displaced Howard Terminal uses “could expose other off-
2 site sensitive receptors to TAC [toxic air contaminant] emissions associated with truck activities”
3 (AR 991), it makes no effort to specify where such exposure would occur and fails to provide any
4 analysis of potential adverse impacts from moving truck parking and other heavy industrial activities
5 to other locations. AR 776. Similarly, the EIR acknowledges that Vehicle Miles Traveled (“VMT”)
6 associated with truck travel is likely to increase due to trucks being relocated from HT, but
7 concludes that impacts associated with these changes cannot be studied or quantified because the
8 exact locations are unknown.³⁶

9 The EIR’s failure to analyze impacts associated with relocation of current activities is not
10 justified by claiming any analysis would be “speculative” because each tenant “will make its own
11 business decision about where to relocate.” AR 11343. A lead agency must consider all “reasonably
12 foreseeable indirect physical changes in the environment which may be caused by the project.”
13 CEQA Guidelines § 15064(d). Given the substantial evidence in the record regarding the
14 unavailability of the Roundhouse and other areas of the Port to accommodate truck parking and
15 other displaced uses, it is reasonably foreseeable that truck parking and other current activities would
16 need to relocate to other areas outside the Seaport. The City was required to undertake better due
17 diligence to identify potential locations in the vicinity and the region, rather than simply dismissing
18 any impacts from relocation as “speculative.” A lead agency has an obligation to thoroughly assess
19 a potential impact before concluding that it is too “speculative” to study. *See* CEQA Guidelines
20 § 15145 (“If, ***after thorough investigation***, a lead agency finds that a particular impact is too
21 speculative for evaluation, the agency should note its conclusion and terminate discussion of the
22 impact” [emphasis added]).³⁷ The City conducted no such “thorough evaluation” here.³⁸

23
24 ³⁶ *See, e.g.*, AR 929-930 (“the trip ends associated with use of parking at Howard Terminal would
occur elsewhere, although where is unknown”); *see also* AR 11347 (claiming that “estimating the
VMT or resulting emission changes would be speculative”).

25 ³⁷ *See also* Kostka & Zischke, *Practice under the California Environmental Quality Act*, § 11.28
26 (“[T]he agency ***should conduct a thorough investigation*** before concluding that an impact is too
speculative for further analysis” [emphasis added]).

27 ³⁸ For example, the FEIR declined to utilize surveys of existing tenants and drivers, claiming that
28 such information “would not be reliable or static” because the trucking industry is “dynamic” and

1 The impacts from relocation are far from “speculative.” While the EIR claims air quality
2 impacts from relocation are too speculative to study, it manages to take credit for the reduction in
3 emissions from elimination of current truck and other existing activities at Howard Terminal. *See*
4 AR 3072 (noting that the “reduction in emissions” due to the Project’s replacement of existing
5 activities at Howard Terminal is considered “for the health risk assessment of localized impacts...”).
6 The EIR claims that it cannot fully evaluate the increase in emissions associated with relocation of
7 trucking and other activities (AR 11348-113490), but takes credit for the reduction in toxic air
8 contaminant (“TAC”) emissions at Howard Terminal because “they would no longer occur in the
9 localized area.” AR 11349. These inconsistencies are glaring. By failing to analyze the increase in
10 VMT and associated environmental consequences from relocating crucial Port infrastructure and
11 operations, the EIR fails to disclose the full scope of potential impacts from the Project.³⁹

12 **2. The EIR Fails to Assess Other Significant Impacts From HT Displacement.**

13 While the EIR acknowledges that numerous current HT activities would be displaced by the
14 Project (AR 11339), it focuses almost exclusively on displacement of truck parking in its
15 Consolidated Response. *See* AR 11337, *et seq.* It simply does not study displacement effects
16 relating to other current uses – such as training facilities, offices, and truck repair, or other
17 reasonably foreseeable impacts associated with displacement of truck parking and all other ancillary
18 activities at Howard Terminal, such as noise and other impacts. This, too, is an abuse of discretion.

19
20 operators “frequently change their business operations in response to market conditions and other
21 factors.” AR 11342. This conclusory response is inadequate. *See* CEQA Guidelines § 15088(c)
22 (requiring a “good faith, reasoned analysis” in responses to comments, and noting that “[c]onclusory
statements unsupported by factual information will not suffice”).

23 ³⁹ The EIR also relies on the West Oakland Truck Management Plan to “address” displacement
24 impacts. AR 929, 11350-11352. However, that Plan was intended for a different use, demand,
25 volume, and intensity altogether—as well as a different setting and background circumstances—to
26 “reduce the effects of Port and City trucks serving the former OAB” and a mitigation measure for
27 the OAB EIR. *Id.* The Plan consists of several measures, including engaging stakeholders,
28 improving training for issuing parking tickets, enhanced training for City and Port staff, and other
measures. AR 11350-11352. However, the City fails to explain how these measures will solve the
problem of displacing “approximately 400,000 truck transactions” per year (AR 1100341). Again,
CEQA is not satisfied by an EIR that “ignores or assumes a solution” to a problem. *Vineyard Area
Citizens for Responsible Growth, Inc., supra*, 40 Cal.4th at 429-431.

1 **D. The EIR’s Analysis of Transit Impacts and Grade-Separation Alternatives is**
2 **Inadequate and the City Failed to Adopt All Feasible Mitigation Measures for**
3 **Rail-Related Impacts.**⁴⁰

4 **1. *Relevant Facts.***

5 **(a) UPRR’s Rail Operations in Relation to Howard Terminal.**

6 Union Pacific Railroad Company (“UPRR”) owns and operates a common carrier freight
7 railroad network in the western two thirds of the United States, including California. AR 133754.
8 Its rail lines connect Oakland to and through points southeast (Los Angeles), east (Sacramento), and
9 north (Oregon and Washington). *Id.* UPRR is the largest rail carrier in California in terms of both
10 mileage and train operations, and its network is vital to the economic health of the State and the
11 nation. *Id.*

12 UPRR owns and operates railroad tracks on a right-of-way that runs at street grade along
13 Embarcadero West immediately adjacent to the proposed Project site. AR 9811. Given the location
14 of the Project, there is no pedestrian or vehicle access to the Project site that does not require
15 crossing UPRR’s mainline tracks. AR 733 (Figure 3-7), 736.

16 These “mainline” tracks serve UPRR’s nearby West Oakland Rail Yard and Intermodal
17 Facility, and connect port terminal industrial customers to UPRR’s nationwide rail network. AR
18 9811. Two UPRR mainline tracks pass through all the at-grade crossings on Embarcadero West,
19 except at Market Street and Oak Street where there are three tracks.⁴¹ AR 1718. UPRR’s right-of-
20 way extends 50 feet on either side of the center line of the tracks. AR 9811. UPRR requires the full
21 width of its right-of-way for operational and safety purposes, and it cannot accept any reduction or
22 obstruction of its right-of-way. AR 7614, 9814, 13375.

23 UPRR’s freight trains operate on these tracks day and night, seven days a week, at varying
24 and unpredictable times depending on customer needs. AR 9811. Currently, as few as five or as

25 ⁴⁰ In this Joint Opening Brief, UPRR and CCJPA make the principal railway-related arguments set
26 forth in Section IV.D, and further join in EOSA Petitioners’ arguments relating to Respondents’
27 failure to recirculate the EIR, as stated in Section IV.G. EOSA joins in the arguments of Section
28 IV.D. —

⁴¹ Though freight trains do not presently run on the third track, UPRR plans to activate the third
 track to accommodate future projected increases in customer demand. AR 8014.

1 many as 15 freight trains operate every day on these Embarcadero West main line tracks, and every
2 day several trains stop at Howard Terminal. *Id.* UPRR’s freight train activity in this area is
3 projected to increase in the coming years.⁴² AR 9811, 7613.

4 In addition to the heavy freight movement associated with UPRR’s trains, Amtrak and
5 Capitol Corridor passenger trains operate on these same UPRR tracks. AR 1716. Unlike the
6 dynamic and unpredictable freight trains, passenger trains operate on pre-set schedules (AR 7949)
7 and add approximately 60 trains per day to the rail traffic on this right-of-way. AR 9811.

8 Many freight trains destined for UPRR’s Oakland rail yard must stop directly in front of
9 Howard Terminal before they can be unloaded or delivered to local customers. AR 7950. While at
10 Howard Terminal, UPRR employees separate the train into three sections, set rail car brakes to
11 secure the train, and place the remaining train section back into an adjacent rail yard track to clear
12 the area in front of Howard Terminal. *Id.* This operation, called switching, regularly takes between
13 10 and 45 minutes, but it can take longer. *Id.*

14 **(b) CCJPA’s Passenger Rail Operations in Relation to Howard Terminal.**

15 CCJPA is a statutory joint powers authority⁴³ formed for the primary purpose of managing
16 the Capitol Corridor Rail Service, which encompasses a 170-mile rail corridor in Placer, Yolo,
17 Sacramento, Yolo, Solano, Contra Costa, Alameda, San Francisco, and Santa Clara Counties. AR
18 7499-7500. The Capitol Corridor Rail Service serves several rail stations along the Highway 80,
19 680, and 880 corridors, including the Oakland Jack London station located adjacent to the Project
20 site. *Id.* CCJPA operates thirty (30) weekday trains and twenty-two (22) weekend trains on tracks
21 owned by UPRR. *Id.*

22 **2. The EIR’s Analysis of Transit Impacts is Inadequate.**

23 After finding that motorists and pedestrians will confront a “permanent or substantial
24

25 ⁴² The 2016 SF Bay Area Goods Movement Plan states: “At-grade crossings regularly cause 20-
26 minute traffic delays on local streets. The UP line operates at 88% capacity and projects a 4-
percent annual growth rate in freight traffic for the next 10 years, as well as 2 to 6 additional daily
passenger trains.” AR 51833.

27 ⁴³ CCJPA is authorized pursuant to the Intercity Passenger Rail Act of 1996 (S.B. 457, Chapter 263,
28 codified at Gov. Code § 14070 *et seq.*), and formed pursuant Article 1, Chapter 5, Division 7, Title
1, Sections 6500 *et seq.* of the California Government Code.

1 transportation hazard” (AR 274), the City certified the EIR for the Project and passed the
2 “Jurisdictional Ordinance,” the first of many Project approvals as noted above. AR 1, 405. As
3 described below, the EIR offers little to no analysis of the safety implications associated with the
4 anticipated high volume of pedestrians, motorists, and cyclists who will be crossing UPRR’s tracks
5 to enter or leave the Project area, and the reality that many of them will have consumed alcohol at a
6 ball game or other entertainment event. Respondents concede that these impacts are “significant,”
7 but claim they are “unavoidable.” Their efforts to study these admittedly “significant impacts” and
8 avoid them have been superficial and inadequate. In fact, these significant impacts are not
9 unavoidable. They could be alleviated through additional grade separations and mitigation measures
10 that Respondents summarily dismissed as “infeasible.” AR 11395, 11401, 142264.

11 As discussed above, these deficiencies are subject to *de novo* review. Whether an EIR “fails
12 to adequately address an issue or omits relevant information is subject to *de novo* review; it is not a
13 substantial evidence question.” *Sierra Club*, 6 Cal.5th at 514. Per the CEQA Guidelines, “the EIR
14 should be prepared with a sufficient degree of analysis to provide decision makers with information
15 which enables them to make a decision which intelligently takes account of environmental
16 consequences.” Cal. Code Regs., tit. 14 (“CEQA Guidelines”) § 15151. The courts have looked not
17 for perfection but for adequacy, completeness, and a good faith effort at full disclosure. *Id.*

18 In *Sierra Club*, the California Supreme Court held that an EIR’s discussion of air quality
19 impacts was inadequate, even though it outlined some of the symptoms associated with exposure to
20 various pollutants, because it did not “give any sense of the nature and magnitude of the health and
21 safety problems caused by the [Project]” 6 Cal.5th at 525. “The EIR must provide an adequate
22 analysis to inform the public how its bare numbers translate to create potential adverse impacts or it
23 must adequately explain what the agency does know and why, given existing scientific constraints, it
24 cannot translate potential [...] impacts further.” *Id.* at 525. “If the EIR omits material necessary to
25 informed decision-making and informed public participation[.]...the error is prejudicial.” *Id.* at 516.

26 **(a) The Evaluation of “Gate Down” Time and Impacts Was Inadequate.**

27 Although the Project site includes no fewer than eight at-grade rail crossings (AR 1718-
28

1 1719), the EIR evaluates train occupations and gate “down times” at only two of those at-grade
2 crossings: Market Street and Martin Luther King Jr. Way (“MLK”). AR 1716-1717, 1911.
3 Similarly, although UPRR operations on the Embarcadero West main line tracks are known to be
4 highly variable and not “predictable or static” (see AR 1716 (Table 4.15-9) and 1717 (Figure 4.15-
5 12), and 11364), the EIR evaluates gate down times at these two crossings over only a one-week
6 period, between 11 AM to 11PM, in early 2019. AR 1716-1717 (Table 4.15-9). It reports an
7 average of 6 freight trains⁴⁴ and 36 passenger trains passing through the area and a “median” gate
8 down time of around one minute for each passenger train and four minutes for each freight train
9 during the days and times studied. *Id.* The EIR data also show eight gate down events exceeding 20
10 minutes at Market and four at MLK, and numerous gate down events ranging between 10 and 20
11 minutes at each crossing. AR 1717 (Figure 4.15-12).

12 Appended to the EIR is a “Railroad Corridor and Grade Crossing Improvements Study”
13 (“Railroad Study”), which reports different results for a one-week period (between 11 AM and 11
14 PM) in 2018, and shows a maximum gate down time of 35.1 minutes at the Market & Embarcadero
15 crossing during the week studied. AR 6789. It is possible that many other long gate down times
16 were observed in the one-week time period studied and not shown in the limited data set presented.
17 AR 6788-6789. The Railroad Study also shows that the average gate down time for freight trains is
18 typically higher on the weekend than on weekdays during the week studied (*id.*), meaning the
19 longest gate-down times will occur when the number of people crossing the tracks will be highest.⁴⁵

20 The DEIR’s treatment of 2018 and 2019 gate-down time data is superficial at best and
21 misleading at worst. In addition to studying only one-week of data from limited time periods at only
22 two of eight grade crossings, the EIR further misuses the incomplete data by reporting a concern for
23 pedestrians, cyclists, and vehicles only when gates are down at “both” of the two studied crossings,
24 not one crossing and not at any location other than the two chosen crossings. In response to
25

26 ⁴⁴ In Resolution No. 890045, the City inaccurately found that “freight trains only occur
approximately five times per day during the hours of 11 a.m. and 11 p.m.” AR 259.

27 ⁴⁵ Weekend games tend to have higher attendance than games in other time periods, while weekday
28 day games tend to experience the lowest attendance. AR 5171.

commenters' concern about the lengthy gate down times, Respondents state: "[B]allpark attendees leaving an event who drove and parked on-site *would remain on-site* because they would be unable to leave by car[.]" and "[a]ttendees walking and bicycling across the railroad tracks *would be inconvenienced* leaving the site because they could not cross at either Market Street or MLK[.]" AR 11364 (emphasis added). But this is not just an issue of convenience, and drivers "remaining on-site" in fact means cars stuck idling behind a train gate for unknown (i.e., unstudied) amounts of time.

Respondents' description of Impact Trans 3, as revised in the FEIR, offers a single grade separation as a remedy to lengthy gate-down times on the two crossings they studied. "Grade separation would allow site employees, residents, and visitors who drove to exit the site via their car when both at-grade crossings are blocked." AR 11364. Respondents assume, without any evidence, that the masses of cars stuck behind a train gate could travel to the one grade-separated crossing, despite the high volumes of cars and pedestrians the EIR projects. As noted, the EIR contains no data on gate-down times at the other six at-grade crossings within the Project site, and no effort was made to study how gate-down times will impact traffic circulation.

Similarly, the EIR contains no discussion at all about the impact these gate-down times will have on greenhouse gas emissions and air quality. The air quality studies commissioned by Respondents [Appendix ENE (AR 4666-4755) and Appendix AIR (AR 3047-4571)] do not mention or acknowledge the increased emissions associated with delays caused by at-grade crossings.⁴⁶ The air impacts associated with vehicle queuing delays are particularly important given the Project's proximity to West Oakland, which the EIR acknowledges suffers a "disproportionally high health burden." AR 983. The failure to study and report the impact of GHG emissions caused by vehicles stuck at a rail crossing violates CEQA.

⁴⁶ Consistent with Respondents' failure to acknowledge or study emissions associated with train delays, Respondents by extension do not account for the potential reduction in emissions associated with the addition of grade separations. Instead, Respondents claim that because "at grade crossings are events that occur for a small percentage of daily trips," the reduction [in increased emissions] associated with at-grade crossings would be "nominal." AR 12333. Again, this conclusory statement is not supported by data.

1 The *Sierra Club* case is directly applicable and requires that the City’s approval of the EIR be
2 set aside. Although Respondents’ EIR provides some data relating to train occupations in the
3 vicinity of the Project, the EIR comes nowhere close to giving “any sense of the nature and
4 magnitude” of the transit impacts of the Project, and it does not explain why further analysis was or
5 is infeasible. 6 Cal. 5th at 525. Because the EIR does not “inform the public how its bare numbers
6 translate to create potential adverse impacts,” it does not comply with CEQA, and the City’s
7 certification of the EIR must be overturned.

8 **(b) Insufficient Analysis of Rail Crossings Associated with the Project.**

9 It is common sense that the highest volume of pedestrians, cyclists, and motorists crossing
10 the railroad tracks will occur immediately *after* an evening or weekend ball game, when thousands
11 of people will leave the site *en masse*. Yet the EIR describes pedestrian, bicycle, and vehicle
12 volumes crossing the railroad tracks only on *weekdays* from 3 to 8 PM. AR 1844. It does not
13 evaluate departures *after* a weekend game or a game with a 7 PM start time on a weekday, when
14 multi-modal traffic can be expected to be at its peak. *Id.* (Table 4.15-29). The EIR’s discussion of
15 these anticipated crossings contains no disclosure or acknowledgement of the different attendance
16 that can be expected of a weekday afternoon game versus a weekend or evening game, or the
17 significance of that difference in understanding the Project’s transit impacts.⁴⁷

18 The EIR also provides no data for projected vehicular at-grade crossings at Clay Street,
19 Washington Street, and Broadway, based on the assertion that “vehicular at-grade crossings do not
20 exist” at these intersections. AR 1910 (Table 4.15-42). However, the EIR shows local automobile
21 traffic on game days encompassing Clay, Washington, and Broadway south of the railroad tracks
22 (AR 1766 (Figure 4.15-16)) and two parking garages in this area (AR 1714 (Figure 4.15-11)).
23 Furthermore, the Project will provide pedestrian access through Water Street in Jack London Square,
24 which is open to vehicles between the Clay and Washington Streets (AR 731), so drivers picking up

25 ⁴⁷ The Transportation Management Plan states that “[w]eekend games tend to have higher
26 attendance than games in other time periods, while weekday day games tend to experience the
27 lowest attendance.” AR 5171 (Table 3-2) (A’s 2017 home game average attendance for weekday
28 day/evening and weekend games and modes of travel), (Table 3-3) (anticipated modes of travel at
HT for weekday/weekend games.)

1 and dropping off attendees (or seeking to park in this area) can be expected to cross the railroad
2 tracks on these streets in substantial numbers.

3 The EIR contains data on pedestrian arrivals during “peak hours” (3 to 8 PM),⁴⁸ but provides
4 no information as to how and where these masses of pedestrians will safely exit the Project site after
5 that time period. The Project limits on-site parking to 2,000 spaces at buildout (AR 1757), and the
6 EIR assumes 2.3 people per vehicle (AR 1840, 1845 (Table 4.15-31)), meaning that approximately
7 4,600 of the 35,000 ballpark attendees enter the Project site via automobile. The EIR further
8 assumes 1,000 attendees will arrive by ferry (immediately south of the railroad tracks). *Id.* This
9 means only 5,600 attendees will enter the site by means other than walking across the railroad tracks
10 and as many as 29,400 attendees (including those arriving from BART and TNCs such as Uber and
11 Lyft) will effectively be “pedestrians” who must cross the railroad tracks at-grade in order to enter or
12 depart the site. AR 1845 (Table 4.15-31). The EIR tells us that most ballpark attendees will enter on
13 foot from the eastern portion of the Project site (AR 87313)⁴⁹, so it seems logical that most will
14 leave by the same route, crossing over the railroad tracks at Clay, Washington, Broadway, Franklin
15 and beyond—where Respondents collected no data on train occupations.

16 **(c) No Acknowledgement of Pedestrian or Motorist Behavior at Rail**
17 **Crossings.**

18 The EIR does not acknowledge the reality of pedestrian or motorist behavior at the rail
19 crossings, particularly following a large sporting event likely involving consumption of alcohol.
20 UPRR and other commenters urged Respondents to account for alcohol consumption in their
21 evaluation of transit safety impacts. However, they provided no response on this issue. AR 11355-
22 11375 (Consolidated Response to Rail Safety, Grade Crossing, and Grade Separation). Similarly,
23 the EIR does not address the unique safety threat posed by a two-train “double threat” scenario in

24 ⁴⁸ For example, with respect to pedestrian crossings, the EIR reports peak demand at Washington
25 Street between 6-7 pm before a game. AR 1910. However, this conclusion is undermined by the
26 fact that EIR projects pedestrian crossings over the course of five hours—as opposed to mass
pedestrian exit immediately following the game.

27 ⁴⁹ The 2021 BKF Study indicates that “approximately 59-percent of fans entering the stadium on
28 game-days will enter from the eastern portion of the Project site and most will be pedestrians.” AR
87313.

1 which one train blocks visibility of another train when both tracks become occupied at the same
2 time. A pedestrian (especially one impaired by alcohol) could duck under gate arms to dart across
3 the tracks, not realizing a second train is approaching. In response to the information presented
4 regarding this “double threat” issue, Respondents dismissed the concern as one that “occurred in
5 about 4 percent of all gate-down instances, [or] about two to three times a day” and not substantively
6 different than the broader issue of road users crossing when gates are down. AR 11365, 12306,
7 14654. Such a response misses the mark, especially when the pedestrian or motorist could be
8 intoxicated or reckless.

9 With respect to the broader issue of collisions between roadway users and trains,
10 Respondents responded to these concerns by claiming that, despite the tens of thousands of vehicles
11 and pedestrians crossing numerous at-grade crossings after a large sporting event, “the enhanced
12 safety measures outlined in Mitigation Measure (“MM”) TRANS-3a would offset the risk generated
13 by the additional volume. Therefore, there would be no expected additional delays to freight and
14 passenger railroad operations because of additional collisions.” AR 11366-11370. To support this
15 inexplicable finding, Respondents rely on the Federal Railroad Administration’s (“FRA”) 2020
16 Accident Prediction and Severity Model, without having cited this model in the DEIR or providing it
17 to the public for comment during the DEIR comment period.⁵⁰ Respondents thereby conflate delays
18 to rail operations with delays to motorists and pedestrians stuck at rail crossings, and the attendant
19 safety hazards posed by those delays.

20 This self-serving “no additional delays” conclusion reflects Respondents’ repeated efforts to
21 minimize and obscure the real safety dangers associated with the Project and is not supported by
22 substantial evidence. First, Respondents concede that the FRA model is “not highly sensitive to
23 volume increases” (AR 11369), but increased volume of vehicles and pedestrians crossing the
24

25 ⁵⁰ UPRR and CCJPA incorporate and join in the EOSA petitioners’ argument that the City failed to
26 revise and recirculate the EIR after adding significant new information to the public record, as set
27 forth in Section IV.G. Such information includes Respondents’ reliance on the FRA model and the
28 “double threat” issue raised by UPRR and others. AR 8014, 8289, 9814, 11365. CCJPA provided a
supplemental comment letter on the FEIR, which included its concerns about Respondents’ misuse
of the FRA model. AR 89239-40.

1 railroad tracks is the key issue in assessing this Project's impact on vehicular and pedestrian safety.⁵¹
2 Second, although the record shows that the greatest danger is to pedestrians (AR 1910, 11368), the
3 model's focus is on vehicular collisions (AR 11367). Respondents' use of an inapplicable FRA
4 model to assert that the safety measures outlined in MM TRANS-3a would offset the risk created by
5 the additional volume defies both common sense,⁵² and contradicts Respondents' findings that
6 railroad-related transportation impacts are "significant and unavoidable," even with mitigation. AR
7 274-276, 1910 (Impact TRANS-3), 1923 (Impact TRANS-3.CU).

8 As described above, the EIR does not provide the information necessary for decision-makers
9 to make reasonably informed decisions about the impacts of the Project. Respondents studied train
10 occupations (i) at only two at-grade crossings, (ii) for short periods of time, (iii) at only certain times
11 of the day, and omitted from the analysis key information about vehicular and pedestrian rail
12 crossings after evening games and in critical locations, and the impact of alcohol consumption. As a
13 result, the EIR understates the impacts of high volumes of pedestrians and motorists crossing the
14 railroad tracks, and is therefore inadequate and must be recirculated.

15 **3. The City Did Not Adopt All Feasible Mitigation Measures.**

16 Generally speaking, the lead agency must adopt feasible mitigation measures or project
17 alternatives to reduce the effect to insignificance. *Center for Biological Diversity v. Department of*
18 *Fish & Wildlife, supra*, 62 Cal.4th at 231. Adopting a statement of overriding considerations does
19 not negate the statutory obligation to implement feasible mitigation measures. "Even when a
20 project's benefits outweigh its unmitigated effects, agencies are still required to implement all
21 mitigation measures unless those measures are truly infeasible." *Sierra Club*, 6 Cal.5th at 524-525.
22 Stated another way, "if the [City] were to approve a project that did not include a feasible mitigation
23 measure, such approval would amount to an abuse of discretion." *Id.* at 526 (citation omitted).

25 ⁵¹ See AR 1910 (DEIR Table 4.15-42) and Respondents' response to comments on increased
26 pedestrian volume at AR 11575, 11647, 12307, 2325.

27 ⁵² "Law is not required to abandon common sense." *Gray v. County of Madera* (2008) 167
28 Cal.App.4th 1099, 1116-1117 (declining to defer to the lead agency's findings about the
effectiveness of mitigation measures when such findings "are not supported by substantial evidence
or defy common sense")

Any such measures must be accompanied by the following findings, all supported by substantial evidence (1) the measures are effective, (2) all feasible mitigation measures have been adopted, and (3) the environmental impacts will not be mitigated to less than significant levels. *Sierra Club*, 6 Cal.5th at 523. The lead agency must find that all the mitigation measures “are fully enforceable through permit conditions, agreements, or other measures.” CEQA § 21081.6 (b). “*The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded[,]*” and project mitigation measures do not comply with CEQA where the agency makes no binding commitment to implement or require them. *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (emphasis in original). As set forth below, Respondents’ mitigation measures fall short of these requirements.

(a) Inadequate Mitigation of Rail-Related Impacts.

In reliance on the EIR, Respondents found that the Project’s two railroad-related impacts (Impact TRANS-3 and Impact TRANS-3.CU) are “significant and unavoidable with mitigation[,]” but the record lacks substantial evidence that these impacts are in fact unavoidable. Specifically, Respondents found that “the Project would generate [and contribute to] additional multimodal traffic traveling across the at-grade railroad crossings on Embarcadero that would expose roadway users (e.g., motorists, pedestrians, bus riders, bicyclists) to a permanent or substantial transportation hazard.” AR 274-276, 1910 (Impact TRANS-3), 1923 (Impact TRANS-3.CU). To address these impacts, the EIR proposes, and Respondents approved, the following mitigation measures:

- **MM TRANS-3a: Implement At-Grade Railroad Crossing Improvements**, including installation of “*features like* quad gates for motor vehicles and separate signals and gates for pedestrians and bicyclists” at intersections with Market Street, Martin Luther King Jr. Way, Clay Street, Washington Street, and Broadway, Franklin Street, Webster Street, and Oak Street (AR 1912-13, 14685 (emphasis added)), and construction of a multi-use path between Martin Luther King Jr. Way to Washington Street (and potentially to Broadway) that would be physically separated from the railroad tracks by a fence “separating the railroad tracks and Embarcadero by approximately 10 feet, or the minimum allowable by UPRR.” AR 1912.
- **MM TRANS-3b: Pedestrian and Bicycle Overcrossing**, to be constructed along Clay or Jefferson Street “with some combination of stair and elevator system

1 potentially with ADA-compliant ramping that could also be used by bicycle riders.”
2 AR 1913-17. Although the City’s final Mitigation Monitoring and Reporting
3 Program contemplates an overcrossing at either Clay Street *or* Jefferson Street,
4 Respondents apparently plan to construct the overcrossing at Jefferson Street. AR
5 87315; 87317.⁵³ The overcrossing will “potentially accommodate[e] an estimated
6 3,000 to 6,000 people during the peak hour going to and from the Project site on
7 event days.” AR 1916.

8 For both these measures, the EIR states that, because “some travelers to and from the site
9 would continue to use at-grade crossings at the numerous crossing locations along Embarcadero
10 West,” and because “the improvement is subject to the review and approval of another agency,” both
11 impacts would remain significant and unavoidable. AR 1916.

12 Respondents offer no reason why MM TRANS-3a could not be extended to “the numerous
13 crossing locations along Embarcadero West” that travelers will be using, and there is no such
14 evidence in the record. Respondents extended the rail crossing improvements of TRANS-3a from
15 Broadway to Oak Street in the Final EIR, so such extension is clearly feasible. If they anticipated
16 pedestrians using other at-grade crossings in significant numbers (which is not evident in the EIR’s
17 discussion of the TRANS-3 impacts), the law requires that they extend those improvements to those
18 crossings if feasible, or clearly state why such mitigation is not feasible. But the EIR does not even
19 *describe* the additional crossings where Respondents expect vehicular and pedestrian traffic, much
20 less offer mitigations or explanations as to why such mitigations cannot be provided.

21 While it is clear that the rail-related impacts of the Project will be “significant,” it is equally
22 clear they are not “unavoidable.” Respondents’ claim that these impacts are both “significant and
23 unavoidable” is no more than an excuse to justify their failure to undertake all feasible mitigation
24 measures needed to avoid these impacts.

25 **(b) The Jefferson Street Overcrossing Will Not be Effective.**

26 The record contains ample evidence that most pedestrians are not expected to use, and will
27

28 ⁵³ The 2021 BKF Study, commissioned by AIG, states: “The Jefferson Street alignment was selected for further design and incorporation into the Project due to its cohesion with the existing City grid and the proposed Site plan [.]” AR 87315. “The Jefferson Street alignment received the highest scope possible based on the criteria and was selected as the only viable option for inclusion into the Project.” AR 87317.

1 not be directed to, the Jefferson Street overcrossing. The EIR reports that, “Washington St.
2 crossings would realize the greatest demand for pedestrians” (AR 1910) and shows a minimal
3 number of pedestrians walking through the Jefferson Street corridor, less than twice the number of
4 pedestrians expected on MLK. AR 1847 (Figure 4.15-42). Similarly, the 2021 BKF Study
5 commissioned by AIG does not include Jefferson Street among “the access points with the most
6 significant anticipated demand[,]” whereas other streets are expected to have many more pedestrians,
7 e.g., MLK (25%), Washington St. (30%), Broadway (20%). AR 87314 (Figure 14).

8 Despite this evidence that Jefferson Street would not be travelled by most pedestrians, the
9 2021 BKF Study’s Pedestrian and Bicycle Bridge Alternative Analysis Scoring Matrix (on which the
10 City apparently relied) rates Jefferson Street as the best location for the pedestrian bridge, a finding
11 that is inconsistent with all other evidence in the record. The matrix inexplicably scores Jefferson St.
12 highest for “existing City grid integration” (which “evaluates connectivity of [roadway] with
13 existing City bicycle and pedestrian network north of the Project”), despite the fact that other data
14 and figures show Jefferson St. to be an access point with very low pedestrian utilization. AR 1769,
15 1851, 5200-5202, 87314. It also scores Jefferson Street highest for “proposed site plan integration”
16 (which “considers how well the alternative integrates with the Proposed Site Plan”), despite the fact
17 that other streets are proposed to have many more pedestrian amenities. AR 1789 (Figure 4.15-35).

18 Further, the EIR’s analysis of the efficacy of the Jefferson Street bridge is undermined by the
19 EIR’s failure to analyze pedestrian preferences for at-grade crossings⁵⁴ (*see City of Maywood v. Los*
20 *Angeles Unified School District* (2012) 208 Cal.App.4th 362, 394 (discussion of pedestrian impacts
21 inadequate when EIR failed to address pedestrian preferences for at-grade crossing) (“*City of*
22 *Maywood*”) as well as by the failure of the EIR to include measures to overcome this human
23 proclivity through, for example, the permanent or temporary (game day) closure of at-grade
24 crossings. AR 11645.

25 Under the *Sierra Club* case, the City must make findings supported by substantial evidence
26

27 ⁵⁴ This concern was raised in comment letters submitted by UPRR (AR 9829), CCJPA (AR 8289),
28 and CPUC (AR 8014), but never meaningfully addressed by the City.

1 that all feasible mitigation measures have been adopted, among other things. But such is not true
2 here. Respondents ignored the potentially feasible mitigation measure of a pedestrian overcrossing
3 at MLK, despite the fact that it is a primary route for bicycle and pedestrian access and is frequently
4 occupied by trains (*see* AR 1789 (Figure 4.15-35); AR 75963 (“Biking and walking would be
5 concentrated at the MLK at-grade crossing”)).⁵⁵ Respondents also failed to analyze potentially
6 feasible mitigation requiring closure of at-grade crossings.

7 **(c) The City Failed to Analyze Potentially Feasible Mitigation Requiring**
8 **Closure of the At-Grade Crossings.**

9 Throughout the EIR process, UPRR and CCJPA repeatedly suggested that closure of the at-
10 grade crossings should have been considered as either an alternative or as potentially feasible
11 mitigation for the Project’s impacts on pedestrian safety. AR 9826-9828, 7499-7500, 11636, 11639,
12 11645 (“[t]he most effective and safest way to preclude possible use of at-grade crossings is by
13 closing them, whether temporarily or permanently.”). The City gave these comments short shrift,
14 however, rejecting the potential closure of the at-grade crossings as infeasible because “[i]f all at-
15 grade crossings were closed, two grade separated crossings would need to be provided to serve the
16 Project because the existing roadway network ... do [sic] not have enough lanes to handle all vehicle
17 traffic along a single corridor.” AR 11358 (emphasis added); *see also* AR 11645 (response to
18 comment failing to respond to suggestion of permanent or temporary closures of at-grade crossings).
19 By focusing on an “all or nothing” approach to the closure of at-grade crossings as related to vehicle
20 traffic, the City failed to consider potentially feasible mitigation that would either permanently close
21 some of the at-grade crossings, and/or temporarily close some or all of the at-grade crossings during
22 games and other large events, to protect pedestrian safety. AR 11636, 11639, 11645.

23 *City of Maywood, supra*, is instructive here. In that case, the respondent school district
24 (“LAUSD”) prepared an EIR for a school campus that would be bisected by a busy roadway. 208
25 Cal.App.4th at 371. In addition to school facilities to accommodate approximately 1200 high school

26 ⁵⁵ The 2021 BKF study deems the closure of the MLK at-grade crossing to be infeasible, but
27 nowhere in that study or elsewhere in the record is a pedestrian bridge at MLK studied or deemed
28 infeasible. In fact, the study discusses the importance of access to the Vistra Peaker Power Plant
through MLK (AR 87317), which access could be maintained through a pedestrian overpass.

1 students, the project included a football/soccer stadium with capacity for 1350 people where events
2 would occur after school hours. *Id.* The project included a pedestrian bridge linking the top level of
3 the parking garage on one side of the campus with an upper level of the gymnasium on the other,
4 supposedly preventing pedestrians from crossing the busy roadway at grade. *Id.* at 371-372. While
5 the EIR concluded that use of the pedestrian bridge would reduce impacts to pedestrian safety to less
6 than significant, LAUSD ultimately found the impact to be significant and unavoidable because
7 construction of the pedestrian bridge over the roadway required approvals from other agencies
8 outside of LAUSD's control. *Id.* at 376. *City of Maywood* concluded that the EIR failed to
9 adequately analyze and mitigate the project's impacts on pedestrian safety, and its reasoning is
10 readily applicable to the instant Project. *Id.* at 387-395.

11 Initially, *City of Maywood* found that LAUSD failed to adequately respond to the petitioner
12 city's comments concerning the EIR's analysis of pedestrian behavior, in particular the tendency and
13 likelihood that people would use a direct route across the roadway rather than the pedestrian bridge.
14 *Id.* at 388-389. LAUSD "had an independent duty under CEQA to adequately respond to
15 Maywood's comments regarding the design of the project. The CEQA Guidelines provide that an
16 agency must evaluate and respond to timely comments on the draft EIR that raise significant
17 environmental issues. CEQA § 21091(d); CEQA Guidelines, § 15088. Responses must describe the
18 disposition of the issues raised in the comments. CEQA § 21091(d)(2)(B); CEQA Guidelines, §
19 15088. If the agency rejects a recommendation or objection concerning a significant environmental
20 issue, the response must explain the reasons why. CEQA Guidelines, § 15088 (c). Responses must
21 articulate good faith, reasoned analysis in response, and not mere [c]onclusory statements
22 unsupported by factual information. ... *Ballona Wetlands Land Trust v. City of Los Angeles* (2011)
23 201 Cal.App.4th 455, 475." (Citations in original; internal quotation marks omitted).

24 Here, the City similarly ignored the comments of CCJPA, UPRR, and others that consistently
25 pointed out that the DEIR failed to take into account the behavior of potentially inebriated ballpark
26 patrons to seek out the shortest path across the railroad tracks, and that the only surefire way to
27 prevent such behavior would be to consider and adopt an alternative or mitigation measures that
28

1 closes some or all of the at-grade crossings to pedestrians, whether permanently or temporarily on
2 game days. AR 7499-7500, 11636, 11639, 11645. In response to these comments, the City either
3 shifted the discussion to the impact of complete closure of all at-grade crossings on vehicular traffic
4 (AR 11358) or simply ignored the suggestion that the permanent or temporary closure of some or all
5 of the at-grade crossings to pedestrians is the most effective means of mitigation (AR 11645).

6 *City of Maywood* next turned to whether LAUSD’s analysis of pedestrian safety sufficiently
7 considered pedestrian behavior and its impact on use of the pedestrian bridge and determined that,
8 while the EIR “acknowledged” those issues, the record but did not “show that [LAUSD’s] expert
9 studied or considered the safety of those design features.” 208 Cal.App.4th at 392. Such is the case
10 here, where Respondents failed to account for pedestrian behavior and its likely impact on the
11 effectiveness of MM TRANS-3b. Although the 2021 BKF Study states that “pedestrian demands
12 “could technically be accommodated with a single 20-foot wide pedestrian bridge” (AR 87318-
13 87319), there is no discussion of pedestrian behavior within this study or elsewhere in the EIR’s
14 analysis, and the study itself recognizes that there is no pedestrian bridge location that can
15 adequately serve all neighborhoods. *Id.* Equally importantly, MM TRANS-3a or TRANS-3b
16 include negligible discussion of the steps that will be taken to direct pedestrian traffic to the
17 proposed pedestrian bridge, and neither the analysis of this issue nor the two mitigation measures
18 proposed to close any of the at-grade crossing to pedestrians at any time despite such closures being
19 the most effective means of pushing pedestrian traffic to a pedestrian bridge. AR 7499-7500, 11636,
20 11639, 11645.

21 Finally, *City of Maywood* considered whether the proposed steps outlined in the LAUSD EIR
22 to direct pedestrians to use the pedestrian bridge were adequate, and here again the comparison to
23 the instant Project is telling. 208 Cal.App.4th at 392-395. LAUSD contended that fencing proposed
24 to be built by the project would force students and teachers to use the pedestrian bridge (*id.* at 393),
25 but the court found the reliance on this fencing illusory because the fencing included numerous gaps
26 through which pedestrians could pass to traverse the roadway. *Id.* at 393-394. Further, the court
27 found that on game nights, there was no evidence that patrons would have access to the pedestrian
28

1 bridge since the games and events would occur after school hours. *Id.* at 394.

2 Here, the steps proposed to be taken to ensure pedestrian safety, either at the at-grade
3 crossings or by directing them to the Jefferson Street pedestrian bridge, are similarly illusory. As
4 discussed above, MM TRANS-3a is based almost entirely on the faulty assumption that fencing and
5 a multi-use pathway will be able to be constructed within the UPRR-owned right-of-way, over
6 which the City acknowledges it has no permitting authority. AR 1916. Absent the fencing and
7 multi-use path directing pedestrians to the safest routes, including the pedestrian bridge, the only
8 “feasible” mitigation proposed by the City to decrease risks to pedestrian safety at the various at-
9 grade crossings and direct pedestrians to the pedestrian bridge are quad gates for vehicles and signals
10 and gates for pedestrians. AR 1913-13, 14685. Even these measures are highly questionable, as
11 UPRR advised the City that the quad gates are likely infeasible without additional traffic
12 improvements, and UPRR’s railroad signaling system may preclude certain warning devices. AR
13 9830.⁵⁶ These facts make the City’s decision to ignore the option of closing at-grade crossing to
14 pedestrians, whether permanently or temporarily, that much more egregious and a clear violation of
15 CEQA. *See Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168-1176 (agency
16 violated CEQA by failing to adopt mitigation measures proposed by petitioner when record
17 demonstrated EIR’s measures were likely ineffective).

18 **(d) The Multi-Use Path is a False Mitigation.**

19 MM TRANS-3a’s inclusion of a multi-use path for pedestrians immediately adjacent to
20 UPRR’s track and within UPRR’s right-of-way is inappropriate and misleading because it has no
21 chance of being implemented and is not enforceable. Since before the EIR was prepared, UPRR has
22 been clear that it will not allow fencing or pathways on its right-of-way (AR 7614), which extends
23 50 feet on either side of the centerline of its tracks. AR 9811. Yet the DEIR proposed construction
24 of a “multi-use path” for pedestrians and cyclists immediately adjacent to UPRR’s track. AR 1912.
25 In its comment letter on the DEIR, UPRR once again stated its opposition to the planned use of its

26 _____
27 ⁵⁶ The City responded to this concern by stating that MM TRANS-3a will be implemented after a
28 “diagnostic study” is conducted “as part of final design, permitting, and the GO 88-B Request
(Authorization to Alter Highway Rail Crossings) [to the CPUC].” AR 12338-12339.

1 right-of-way. AR 8714. In response, the City acknowledged its proposed path and fence would
2 indeed obstruct the railroad right of way because any other design would block access to numerous
3 businesses and preclude all vehicle and emergency vehicle access in both directions on Embarcadero
4 West between MLK Way and Webster Street. AR 11374.

5 Yet the proposed multi-use path is still featured among the final mitigation measures
6 proposed as part of TRANS-3a in the EIR and approved by the City in Resolution No. 89045. AR
7 392. The City knows UPRR owns this right-of-way and has the power to control whether project
8 improvements will be constructed within it. Nowhere in the EIR or City legislative findings is there
9 any mention of how the City plans to construct a path and fence on UPRR's right-of-way, a right-of-
10 way that is both necessary for the operations of a federal rail carrier and beyond the reach of local
11 regulation under the preemption provisions of the federal Interstate Commerce Commission
12 Termination Act ("ICCTA"). *See, e.g., City of Lincoln v. Surface Transportation Board* (2005) 414
13 F.3d 858, 861-62 (condemnation of a federal rail carrier's right-of-way found preempted under the
14 ICCTA because right-of-way served key function in rail carrier's operation). Therefore, MM
15 TRANS-3a violates the law requiring mitigation measures to be "fully enforceable" and misleads the
16 public about whether and how the Project site can safely accommodate the pedestrians it will attract.

17 **(e) The City Improperly Deferred Mitigation Measures.**

18 The Project's mitigation measures violate the well-established law requiring mitigation
19 measures to describe the specific actions to be taken to reduce or avoid an impact. *See* CEQA
20 Guidelines §15126.4(a)(1)(B). As revised in the FEIR, the measures called for by MM TRANS-3a
21 are vague and uncertain, in contrast with the improvements it set forth definitively in the DEIR. AR
22 11361-62. The FEIR now prefaces the list of potential rail crossing upgrades not as specific safety
23 features, but as "features *like*," therefore removing any guarantee that specific features will be
24 selected. In the Resolution passed by the City to certify the EIR, MM TRANS-3a "shall include the
25 measures *like* those listed below." AR 3391-3393 (emphasis added). This mitigation measure is not
26 accompanied by any commitment that the features ultimately selected will be equally or more
27
28

1 effective, and therefore constitutes impermissible deferral of mitigation.⁵⁷ Nor does the EIR or the
2 City’s Resolution certifying the EIR explain why deferral is appropriate.⁵⁸

3 The California Public Utility Commission, the agency responsible for approving any at-grade
4 crossing improvements, advised Respondents that staff and law enforcement should supervise all
5 crossings during a game event. AR 8017. Yet nowhere in the Project’s approved mitigation
6 measures is there any commitment to such a mitigation.

7 The mitigation offered for the extreme and complex traffic problems created by the Project is
8 a draft Transportation Management Plan (“TMP”) (MM TRANS-1b), which is similarly defined by
9 vague goals and includes no enforceable standards (*see* AR 5143-5256, 1814-1816). The TMP also
10 has been the subject of substantial revision and addition by City staff, long after the City Council’s
11 certification of the EIR and approval of the Project’s Mitigation Monitoring Reporting Program
12 (“MMRP”). AR 1814, 16181, 16202-16207, 16139. The draft TMP appended to the EIR states:
13 “One personnel *may be provided* at the Market Street and Martin Luther King Jr. Way crossings to
14 assign right-of-way among vehicles, bicycles, and pedestrians and help to keep the tracks clear. One
15 personnel each *may also be assigned* at the Clay Street, Washington Street, and Broadway crossings
16 primarily to be a visible presence and ensure the people crossing the tracks obey the traffic control.”
17 AR 5236 (emphasis added). The key word here is “may.” None of these mitigations is guaranteed,
18 even though the record indicates these measures are “needed” in these locations.⁵⁹

19 Like the TMP, the planned pedestrian improvements included in MM TRANS-1e are also
20 inadequate and include numerous proposals that are not certain. For example, MM TRANS-1e calls
21 for traffic and/or parking control officers to be stationed along Washington Street before and after
22

23 ⁵⁷ While the California Supreme Court has approved mitigation measures with a “substitution
24 clause,” under which the lead agency may retain discretion to modify or substitute the adopted
mitigation “with equally or more effective measures in the future as better technology becomes
available” (*Sierra Club*, 6 Cal.5th at 524), MM TRANS-3 does not include any such substitution
clause.

25 ⁵⁸ *See Cleveland Nat’l Forest Found v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413,
26 442 (rejecting deferred mitigation partly because agency did not proffer any evidence supporting
deferral).

27 ⁵⁹ 2021 BKF Study states: “Both the four-lane Market Street and two-lane MLK Way would
28 accommodate their daily traffic loads even with game day traffic; although traffic control officers
would be needed to handle the traffic surges before and after a ballpark event.” AR 87318.

1 ballpark events that exceed 21,000 attendees. AR 389, 1876. However, Respondents have not
2 actually committed to providing such officers, because MM TRANS-1e alternatively proposes to
3 upgrade portions of the sidewalk. *Id.* Even if Respondents had actually committed to providing an
4 officer, the mitigation measure still would be inadequate because it proposes to station personnel at
5 only one intersection, when there are eight intersections in the immediate Project site and apparently
6 more through which Respondents expect ballpark attendees to travel.

7 **(f) Mitigation Required for Alternative 3 Is Not Included in the EIR or**
8 **City Approvals.**

9 Neither the EIR nor the final MMRP approved by the City accounts for the unique impacts
10 associated with Alternative 3, despite the fact that the two grade separation options (Market and
11 Brush) differ in their impacts and each calls for different solutions. For example, the 2019 BKF
12 Study says that a grade separation at Market Street would reduce Howard Terminal access for
13 cyclists and pedestrians, and grade separation at Brush Street would require numerous off-site
14 infrastructure improvements. AR 75963. These improvements “include[e]: parking removal and
15 geometric changes between the Brush Street grade separation and 7th Street, cul-de-sac of 2nd Street
16 at Brush Street, and changes to 6th Street at Market Street to make it a continuous route.” *Id.*
17 Although the Brush Street alternative is described in the EIR as requiring the termination of the 2nd
18 Street in a cul-de-sac, it does not discuss the other unique impacts and necessary mitigations (AR
19 2153), and the public has no assurance that the roadway-specific improvements described in the
20 2019 BKF Study will actually be implemented.

21 Similarly, the 2021 BKF Study describes a major pedestrian access and social equity problem
22 associated with the closure of the at-grade Market Street crossing (which would occur should a
23 Market Street grade separation be chosen):

24 “The Jefferson Street pedestrian and bicycle bridge alignment serves the greater
25 pedestrian demand coming from Downtown Oakland, Old Oakland, and Chinatown
26 but does not serve people walking to and from West Oakland. Removal of the existing
27 at-grade crossing at Market Street would eliminate this pedestrian access point to the
28 site for people walking to and from West Oakland neighborhoods, and would require a
new pedestrian and bicycle bridge overcrossing at Market Street to equitably serve
these neighborhoods.” AR 87319.

1 However, the EIR does not discuss this impact further, or offer any mitigation for it. The
2 presentation of both grade separation options as one alternative makes it impossible for Project
3 decision makers and the general public to understand and compare the impacts associated with each
4 one, much less be assured that their unique impacts will be properly mitigated as required by law.

5 **4. *The City’s Rejection of Multiple Grade Separation Alternatives was Not***
6 ***Supported by Substantial Evidence.***

7 The Legislature has declared it the policy of the State “that public agencies should not
8 approve projects as proposed if there are feasible alternatives or feasible mitigation measures
9 available which would substantially lessen the significant environmental effects of such projects... .”
10 CEQA § 21002. “Feasible” means “capable of being accomplished in a successful manner within a
11 reasonable period of time, taking into account economic, environmental, social, and technological
12 factors.” *Id.* § 21061.1. A potentially feasible alternative that might avoid a significant impact must
13 be discussed and analyzed in an EIR so as to provide information to the decision makers about the
14 alternative’s potential for reducing environmental impacts. *Id.*

15 “The fact that an alternative may be more expensive or less profitable is not sufficient to
16 show that the alternative is financially infeasible. What is required is evidence that the additional
17 costs or lost profitability are sufficiently severe as to render it impractical[.]” *Citizens of Goleta*
18 *Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1181, 1183. Thus, when the cost of an
19 alternative exceeds the cost of the proposed project, “it is the magnitude of the difference that will
20 determine the feasibility of this alternative.” *Uphold Our Heritage v. Town of Woodside* (2007) 147
21 Cal.App.4th 587, 599. “[T]he question is . . . whether the marginal costs of the alternative as
22 compared to the cost of the proposed project are so great that a reasonably prudent [person] would
23 not proceed[.]” *Id.* at 600.

24 Despite the significant impacts of the Project on public safety at rail crossings, impacts that
25 could be mitigated through additional grade separated crossings (AR 9815-9817), the record
26 contains scant evidence that these options were meaningfully considered before they were deemed
27 infeasible. Instead, what the record reveals is that as early as January 2019, long before the EIR was
28

1 circulated, and long before the City Council certified it, a decision was made, either by AIG or by
2 the City itself, perhaps both, that all grade separation alignments except Market and Brush Street
3 were infeasible. AR 142264. This is made clear in a one-page memorandum dated January 14,
4 2019, which reports that, “Ultimately, the Market Street and Brush Street options were selected for
5 further analysis[,], while other alignments (Martin Luther King Jr. Way, Chestnut Street, Linden
6 Street, Filbert Street, Myrtle Street, Jefferson Street, Clay Street, and Castro Street) were discarded
7 for one reason or another.” *Id.*

8 In support of Resolution No. 89045 certifying the EIR, the City Council found that it had
9 considered and rejected the “Alternative with No At-Grade Railroad Crossings”⁶⁰ as infeasible. AR
10 277. Specifically, the City Council found that the Alternative is “not capable of being accomplished
11 in a successful manner within a reasonable period of time, taking into account economic,
12 environmental, social, technological or legal factors, or is inconsistent with City goals or policies, or
13 would not meet important project objectives, or that it would not reduce or avoid any of the
14 significant effects of the Project, for the reasons detailed in Section 6.4 of the Draft EIR which are
15 incorporated herein by reference as well as all the facts and evidence in the record supporting the
16 rationale, including Consolidated Response 4.9 in the EIR.” *Id.* ⁶¹

17 The EIR focuses its discussion of this rejected multiple grade separation alternative on both
18 MLK and Market (or Brush Street), though it notes that other single alignments for grade-separated
19 crossings were also evaluated and rejected. AR 2189. “The elimination of both existing at-grade
20 crossings serving the site was deemed infeasible, given the need to accommodate access to the site
21

22 ⁶⁰ This alternative was one of three alternatives that were considered but dismissed from further
23 analysis in the EIR based on a finding of infeasibility were: “Additional Off-Site Alternatives”;
24 “Alternative with No At-Grade Railroad Crossings”; “Grade Separation Alternative with an
25 Undercrossing.” AR 277.

26 ⁶¹ The City’s references to Section 6.4 and Consolidated Response 4.9 of the EIR in support of its
27 infeasibility finding (AR 277) is unhelpful. Although Section 6.4 describes the constraints
28 associated with adding another grade separation at MLK (AR 2189-90), these constraints are of the
same character associated with the Market/Brush Street alignments, and neither the EIR nor any of
the other studies in the record explains how or why the costs associated with one grade separation
was feasible, whereas a second grade separation is not. Similarly, Consolidated Response 4.9
summarily dismisses a multiple grade separation alternative for the same reasons stated in Section
6.4. AR 11395.

1 and the constraints associated with constructing grade separations at both Market (or Brush) Street
2 and MLK Jr. Way.” AR 2190. The EIR describes the specific impacts to driveways of private
3 property, relocation of utilities, pedestrian access into the site, and limitations on the developable
4 acreage of the Project. *Id.*⁶²

5 Tellingly, these same impacts are associated with Alternative 3—the single grade
6 separation—despite the fact that this Alternative was deemed feasible and ultimately approved by
7 the City. The City Council found as follows:

8 With both the Market Street and Brush Street alignments, Alternative 3 would also
9 restrict existing driveway access to some parcels where the roadway rises to go over
10 the railroad tracks. In these instances, the Project sponsor would work with affected
11 property owners to relocate driveways and potentially reconfigure vehicle, bicycle, and
pedestrian access and parking. Substantial utility relocations also would be required for
both options. AR 219.

12 So, the City found that addressing these impacts was feasible for a grade separation at Market
13 or Brush, but those same impacts made grade separation elsewhere infeasible. The EIR contains no
14 data or analysis reflecting the basis for the City’s decision that one grade separation was feasible but
15 a second one was not. Instead, the City offers this conclusory and circular justification: “[T]he
16 elimination of existing at-grade railroad crossings adjacent to the Project site and the Jack London
17 Square area was considered and determined to be infeasible for the reasons set forth in the EIR.” AR
18 275. However, the EIR provides no reasons for eliminating any existing at-grade railroad crossings
19 in the Jack London Square area⁶³, and the reasons provided for not grade separating both MLK and
20 Market/Brush mirror the constraints the City found feasible to overcome for Alternative 3.

21 The EIR contains no information about the impact of only one grade separation on vehicular
22 congestion and vehicular/pedestrian safety, or a comparison of outcomes with 0, 1, 2, 3+ vehicular
23

24 ⁶² This is consistent with 2021 BKF Study, which evaluates other roadway options to provide grade
25 separated access into and out of the site and describes the constraints associated with constructing
26 grade separations at both Market (or Brush) Street and MLK as follows: “Two grade separated
structures would not be feasible given the property access constraints, right-of-way impacts, and
compounding effects of cost on the Project.” AR 87318.

27 ⁶³ The roadway furthest west that was considered for grade separation was Clay Street. AR 87304.
28 The first page of the study shows Clay Street two blocks east of Jack London Square, which is
bounded by Broadway and Franklin (neither of which were considered from grade separation).

1 grade separated access points. Instead, it offers a single grade separation as a remedy to lengthy
2 gate-down times on the two crossings Respondents studied, without any evidence of the efficacy of
3 one vehicular grade separation on traffic circulation. Impact Trans 3, as revised in the final EIR,
4 merely states: “Grade separation would allow site employees, residents, and visitors who drove to
5 exit the site via their car when both at-grade crossings are blocked.” AR 11364. Respondents
6 assume, without any evidence, that the masses of cars stuck behind a train gate could travel to the
7 one grade-separated crossing, despite the high volumes of cars and pedestrians the EIR projects.

8 The studies appended to the EIR similarly contain no such analysis of the impact of a
9 singular vehicular grade separation versus multiple. In August 2019, AIG commissioned a 15-page
10 study (“the 2019 BKF Study”) which evaluated grade separation options along Market St and Brush
11 Street only. AR 75961-75975. In September 2021, many months after the DEIR had been
12 circulated and public comments had been received, AIG commissioned another report (“the 2021
13 BKF Study”) describing the feasibility of the alignment options that were in fact rejected more than
14 two years earlier, as reflected in the short January 2019 memo. The 2021 BKF Study provides only
15 a superficial and cursory analysis of those grade separation options,⁶⁴ and expressly recognizes the
16 need for further analysis—analysis that was never performed—regarding the option of grade
17 separating more than one alignment:

18 “The cost of one or more grade separated overpasses would have to be factored into
19 the overall cost of the project, which in turn could affect the availability of construction
20 financing, and thus affect the project’s economic feasibility. *The analysis should also
21 consider whether the cost of each additional overcrossing has sufficient marginal
22 utility to justify its cost.*” AR 87318 (emphasis added).

23 The BFK Study raises questions about feasibility that are unanswered anywhere in the
24 record: What is the estimated cost of a second grade separated alignment? Would that cost affect
25 the availability of construction financing? What is the marginal utility of a second grade separated
26 alignment, and would that utility justify the anticipated cost? Neither the BFK study nor any other
27 information in the record contains such an analysis.

28 ⁶⁴ The 2021 BFK Study describes grade separation alternatives in short paragraphs and ranks them
based on 10 evaluation criteria, which in many instances are not addressed in the paragraphs
applicable to each option.

1 Although the 2021 BKF Study estimates the cost of an overpass along Brush Street or
2 Market Street to be between \$90 to \$100-million, not including right-of-way acquisition, there is no
3 estimate for the price tag associated with grade separation at MLK, or any other roadway. If we
4 assume that the price tag for an additional grade separation is as high the \$100-200 million range,
5 this cost alone does not make it infeasible without further information and analysis about the Project
6 financials more generally.

7 It cannot simply be assumed that the additional costs associated with a second grade
8 separated crossing are so severe as to render the project impractical. This is particularly true given
9 that the Project is anticipated to generate approximately \$79.9 million in one-time revenues during
10 the construction period, approximately \$41.4 million in recurring annual revenues, and an additional
11 \$1.4 million in annual net parking revenue for the City. AR 16231. “An environmentally superior
12 alternative cannot be deemed infeasible absent evidence the additional costs or lost profits are so
13 severe the project would become impractical.” *Kings County Farm Bureau v. City of Hanford*
14 (1990) 221 Cal.App.3d 692, 736.

15 Cases upholding an agency’s finding of economic infeasibility of an environmentally
16 superior alternative generally involve situations where the alternative project costs outweigh the
17 plausible revenue or market value of the project, or defeated the project objective. *See, e.g., San*
18 *Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102
19 Cal.App.4th 656, 679–680 (evidence of economic infeasibility included multiple experts’
20 independent conclusion that the cost of rehabilitating building “would be millions of dollars more
21 than the value the Building could thereafter generate in its existing configuration, through any
22 plausible revenue-producing usage”); *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993)
23 23 Cal.App.4th 704, 715 (substantial evidence supported economic infeasibility of lower density
24 project alternative where market survey showed houses under alternative were necessarily more
25 expensive and defeated project objective of providing most affordable single-family housing in the
26 area); *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1401
27 (economic feasibility finding supported by substantial evidence where letter from lender and
28

1 economic analysis showed that project alternative would result in loss of all profit and loss of
2 construction financing). Here, the record is devoid of such evidence.

3 While the City is not required to implement every mitigation and every alternative, it is
4 required to meaningfully consider whether they are feasible, rather than allowing AIG to eliminate
5 options that would greatly improve public safety because they could reduce the Project's profits by
6 some undisclosed measure. In light of the Project's "significant impact" on public safety at rail
7 crossings, the City was required to meaningfully consider all potentially feasible project alternatives
8 and adopt any feasible (i.e., economically viable) alternative, such as multiple grade separations, that
9 would lessen those serious safety impacts. The City failed to do so. Instead, it rejected the multiple
10 grade separation option early in the Project, before any studies were commissioned and without any
11 economic analysis to support its determination. Though AIG later papered its conclusion with the
12 BKF Studies, no economic analysis was ever prepared to support the City's finding that multiple
13 grade separations were infeasible, despite the fact that the claimed constraints were all capable of
14 being addressed, as evidenced in the City's ultimate selection of Alternative 3. Therefore, the City's
15 finding that multiple grade separations were infeasible is not supported by substantial evidence in the
16 record and must be set aside.

17 **E. The EIR Understates Many Other Significant Environmental Impacts of the**
18 **Project.**

19 **1. Air Quality and GHG Emissions.**

20 The EIR's air quality and GHG analyses suffer from numerous deficiencies, including failure
21 to evaluate and quantify air quality impacts from Project construction and remediation; failure to
22 account for air quality impacts from HT displacement (as described above); incomplete analysis and
23 modeling of emissions from rooftop generators; unlawful deferral of GHG mitigation measures; and
24 a flawed analysis of GHG benefits associated with electric vehicle ("EV") charging stations.

25 **(a) Inadequate Analysis of Fugitive Dust Emissions During Construction**
26 **and Remediation.**

27 The EIR fails to evaluate air quality and public health impacts related to fugitive emissions of
28

1 particulate matter, and related TACs during construction and remediation at the Project site. The
2 EIR notes that “fugitive dust emissions would result from site disturbance, including grading and
3 asphalt recycling...” AR 925, 950. However, the EIR fails to evaluate TAC emissions associated
4 with Project remediation activities, or to quantify the potential air quality and public health impacts
5 of those emissions. The EIR states that the Health Risk Assessment includes “fugitive emissions
6 from on-road construction vehicles, including tire wear, brake wear, and road dust,” as well as
7 exhaust emissions. AR 12033-12034, 986-987. However, the EIR does not discuss or quantify the
8 non-vehicular dust emissions and emissions of associated TACs contained within that dust and the
9 hazardous air emissions from these activities. AR 89130.

10 In responses to Petitioners’ comments on this issue, the FEIR notes: “The potential of
11 remediation activities to release hazardous material is evaluated in Draft EIR Section 4.8, *Hazards*
12 *and Hazardous Materials*. The Air Quality section does not evaluate hazardous materials...”
13 AR12034. Chapter 4.8, in turn, states that “[h]azardous materials impacts relative to air quality are
14 evaluated in Section 4.2, Air Quality, and are not considered further in this section.” AR 1375. This
15 circular analysis is inadequate under CEQA.⁶⁵ The EIR was required to fully analyze impacts
16 related to emissions of TACs released during soil excavation, on-site consolidation, and/or
17 relocation/removal activities including for Alternative 3.

18 **(b) The EIR Understates Potential Impacts From Diesel-Powered**
19 **Emergency Generators.**

20 The EIR’s analysis of the air quality and public health impacts from the Project’s numerous
21 diesel-powered emergency generators is inadequate and inconsistent with applicable BAAQMD
22 policy regarding reasonably foreseeable operations. The EIR acknowledges that the Project “would
23 generate operational emissions from a variety of sources, including stationary sources (diesel
24

25 ⁶⁵ The EIR claims that “[a]ll site construction activities associated with exposure to onsite soil
26 (including fugitive dust) or groundwater will be conducted in compliance with site-specific Health
27 and Safety Plans (HASPs) to protect workers and the environment from site contaminants,” as
28 required under Mitigation Measure HAZ-1c. AR 951, 12304. However, the reference to HASPs
and other regulatory requirements does not excuse the City’s failure to adequately analyze impacts
related to TAC emissions from project construction and so advise the public.

1 emergency generators).” AR 926, 959. The EIR assumes that the Project would include an
2 emergency generator at the ballpark stadium and a new emergency generator on each of the mixed-
3 use buildings, for a total of 17 new generators. AR 933. Under BAAQMD policy, estimates of
4 generator emissions should reflect at least 100 hours per year for reasonably foreseeable backup
5 operations such as public safety power shutoffs and other power outages, in addition to the operating
6 hours estimated for maintenance and testing.⁶⁶ However, the EIR assumes only 50 hours per year of
7 maintenance and testing time for the generators (AR 3086) and asserts that 100 hours per year of
8 operation for public safety power shutoffs “is not a reasonably foreseeable annual condition” (AR
9 12019). This is contrary to BAAQMD policy, which states that “100 hours represents a **reasonable**
10 **worst-case assumption** regarding the amount of time during any given year that a facility could have
11 to operate without outside power, which would necessitate emergency operation of the facility’s
12 backup generator(s).” AR 89131 (emphasis added). By assuming that zero hours of emergency
13 operation, the EIR significantly understates the air pollutant emissions and health risks associated
14 with the emergency generators, including exposure to future residents and ballpark attendees.⁶⁷

15 The EIR’s modeling analysis for rooftop emergency generators is also defective, resulting in
16 an underestimation of health impacts. The EIR uses “generic” or “default” engine stack parameters
17 typically used for generators ranging in size from 335 hp to 2012 hp (AR 3239, 89131) because
18 “specific generator stack parameters and exact locations for the project’s future generators are
19 unknown” (AR 12020). But the DEIR’s Health Risk Assessment states that the Project sponsor had
20 previously provided the “[n]umber, size, and fuel of emergency generators,” as well as the engine

21 ⁶⁶ See EOSA Request for Judicial Notice (“RJN”), Ex. A, *Calculating Potential to Emit for*
22 *Emergency Backup Power Generators*, BAAQMD, June 2019, available at:
23 [https://www.baaqmd.gov/~media/files/engineering/policy_and_procedures/banking-and-](https://www.baaqmd.gov/~media/files/engineering/policy_and_procedures/banking-and-offsets/calculating-pte-for-emergency-generators-06032019-pdf.pdf?la=en#:~:text=When%20determining%20the%20Potential%20to,related%20and%20testing%20operation.)
24 [offsets/calculating-pte-for-emergency-generators-06032019-](https://www.baaqmd.gov/~media/files/engineering/policy_and_procedures/banking-and-offsets/calculating-pte-for-emergency-generators-06032019-pdf.pdf?la=en#:~:text=When%20determining%20the%20Potential%20to,related%20and%20testing%20operation.)
[pdf.pdf?la=en#:~:text=When%20determining%20the%20Potential%20to,related%20and%20testing%20operation.](https://www.baaqmd.gov/~media/files/engineering/policy_and_procedures/banking-and-offsets/calculating-pte-for-emergency-generators-06032019-pdf.pdf?la=en#:~:text=When%20determining%20the%20Potential%20to,related%20and%20testing%20operation.)

25 ⁶⁷ BAAQMD expressed concerns that ballpark attendees “who will be approximately at the same
26 height as the roof line of the adjacent mixed-use buildings may be exposed to the diesel exhaust
27 from the proposed rooftop generators while testing.” AR 11676. The City’s response dismissed
28 BAAQMD’s concerns, stating that ballpark attendees would not be considered “sensitive receptors”
and “their exposure to the proposed Project’s diesel generator testing TAC emissions (and all other
project-related TAC emissions) would be far less than that of the new on-site sensitive receptors...”
AR 11680. However, the City was not excused from disclosing such potentially significant impacts.

1 locations based on building heights and California Building Code requirements. AR 3187. The City
2 clearly had sufficient information to develop appropriate stack parameters for each engine and
3 location. The EIR’s use of “default” stack parameters, instead of more accurate, specific parameters,
4 results in an understatement of health risks attributable to emergency generators. AR 89131-89132.

5 **(c) Inadequate Analysis of Air Quality Impacts From HT Displacement.**

6 As described in section IV.C, the EIR fails to address reasonably foreseeable air quality
7 impacts resulting from the relocation of all existing operations at Howard Terminal.

8 **(d) The EIR Unlawfully Defers Mitigation of GHG Impacts.**

9 Mitigation Measure (“MM”) GHG-1 requires AIG to develop and implement a Project-wide
10 GHG Reduction Plan requiring that the Project achieve “no net additional” GHG emissions. *See* AR
11 521-534. The plan must “specify anticipated GHG emission reduction measures sufficient to reduce
12 or offset these emissions,” such that the resulting GHG emissions are “below the City’s ‘no net
13 additional’ threshold of significance pursuant to CEQA.” *Id.* The measure also provides a list of
14 required measures and a menu of additional measures for on-site and off-site GHG reduction, and a
15 monitoring and reporting program. *Id.* The EIR concludes that with implementation of MM GHG-
16 1, emissions would be reduced to less-than-significant levels. AR 1315.

17 However, MM GHG-1 unlawfully defers mitigation of GHG impacts until after Project
18 approval without committing the City to a specific performance standard.⁶⁸ The City asserts that the
19 “no net additional” GHG emission standard constitutes an adequate “quantitative” performance
20 standard. *See, e.g.,* AR 11274, 11672, 11309. However, courts have squarely rejected similar
21 performance standards as inadequate deferral of mitigation. In *CBE, supra*, 184 Cal.App.4th 70, the
22 court considered a nearly identical GHG mitigation measure for a refinery upgrade project. The City
23 found that GHG emissions from the project would have a significant environmental effect, and
24

25 ⁶⁸ Several commenters and public agencies raised concerns that MM GHG-1 unlawfully deferred
26 mitigation. *See, e.g.,* AR 11675 (BAAQMD letter arguing that additional on-site emission reduction
27 measures must be specific and must be included as design or programmatic elements of the Project
28 rather than as potential future measures “to avoid deferred mitigation”); AR 12798-12806
(Communities for a Better Environment, *et al.*, noting that MM GHG-1 unlawfully defers mitigation
by improperly relying on a future GHG reduction plan).

1 proposed mitigation measures to ensure that the project’s operation “shall result in no net increase in
2 GHG emissions over the Proposed Project baseline.” *Id.* at 91. The “centerpiece” of the plan was a
3 measure requiring the project sponsor to submit to the City Council, within a year after approval of
4 the project, a plan for “achieving complete reduction of GHG emissions up to the maximum
5 estimated Renewal Project GHG emissions increase over the baseline.” *Id.* The court found that the
6 measure improperly deferred formulation of mitigation measures because it “merely propose[d] a
7 generalized goal of no net increase in greenhouse gas emissions and then set[] out a handful of
8 cursorily described mitigation measures for future consideration.” *Id.* at 93. The court also faulted
9 the measure for “creat[ing] no objective criteria for measuring success.” *Id.* at 95. *See also POET,*
10 *LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 740 (broad objective to “ensure that
11 there is no increase in NOx” constituted improperly deferred mitigation). Here, the “no net
12 increase” in GHG emissions standard in MM GHG-1 is nearly identical to the “generalized goal of
13 no net increase in emissions” found to be inadequate in *CBE*, and MM GHG-1 constitutes
14 improperly deferred mitigation.

15 **(e) Flawed Analysis of GHG Benefits From EV Charging Stations.**

16 The EIR overstates the emissions reductions associated with installation of EV charging
17 stations at the Project site, and therefore fails to disclose the severity of Project-related impacts. The
18 EIR assumes that because 10% of the Project’s total parking spaces will be equipped with EV
19 chargers, that alone “will encourage the use of EVs at the Project site and discourage the use of
20 gasoline and diesel passenger vehicles, thus reducing mobile source emissions associated with
21 vehicle travel to and from the Project site.” AR 927, 994. However, the EIR contains no evidence
22 to support that assumption. *See* AR 12046, 9465-69, 89132. The EIR also improperly credits the
23 Project with emissions reductions from State-mandated EV charger installation programs and
24 initiatives, such as CARB’s EV sales mandate, that are not attributable to the Project. AR 9466-67.
25 As a result, the EIR significantly overstates the GHG benefits associated with EV charging, and
26 underestimates the Project’s GHG emissions.

2. Inadequate Analysis and Mitigation of Hazards and Hazardous Materials Impacts.

Howard Terminal has a long history of industrial use resulting in significant contamination of soil and groundwater at the site. AR 1336, 1344-45. The Project will require the excavation and movement of enormous quantities of soil (possibly as much as 200,000 cubic yards) that exceed risk-based residential and commercial use standards, removal and/or reburial (“consolidation”) of that contaminated soil, and collection and discharge of contaminated groundwater resulting from site dewatering operations. AR 0001377-78. This is a massive undertaking in and of itself, with associated adverse impacts. These activities will expose construction workers and other receptors to contaminants over a period of years and potentially beyond. Three parcels comprising the Project site are each “registered” hazardous waste sites that are subject to land use covenants which require the encapsulation of the contaminated soils in place to avoid future human and environmental exposure. AR 1336-37. The Project would remove the “caps,” disrupting the protective remedies in place for years and relying on generic, unstudied mitigation measures to reduce these risks to a less than significant level. *Id.*

Despite the potentially significant impacts of these activities, the EIR’s analysis of hazards and hazardous materials suffers from substantial deficiencies. These include, among others, incomplete identification of site conditions/contaminants and a fundamentally inadequate Human Health and Ecological Risk Assessment (“HHERA”) that fails to properly characterize risks to human health and the environment. The EIR also improperly defers mitigation and analysis of potentially significant impacts to future plans and approvals, precluding the public and decision-makers from properly evaluating impacts associated with these remediation efforts.⁶⁹ Together, these inadequacies render the EIR’s analysis of hazards and hazardous materials fundamentally inadequate.

⁶⁹ In fact, the actual remedial measures that might be implemented at the site are deferred even beyond the Remedial Action Plan stage, to a later set of Remedial Design Implementation Plans, leaving the public and decision-makers with only the most general sense of the conceptual remedies that might be employed. AR 11467-68.

1 **(a) Incomplete Identification of Site Conditions and Contaminants.**

2 The EIR’s description of existing site conditions fails to adequately inform the public and
3 decisionmakers regarding the nature and extent of contamination at the site and the environmental
4 and human health consequences of excavating and relocating at least 200,000 cubic yards of highly
5 contaminated soil during the Project construction. The EIR provides only a high-level list of
6 different *categories* of contaminants present in soils, coupled with examples of one or two specific
7 contaminants within the category. AR 1344-1345. Despite noting that the concentrations of
8 contaminants uniformly exceed current health-based screening levels for residential and commercial
9 uses proposed as part of the Project, the EIR fails to discuss the specific contaminants associated
10 with the historical site uses that are known to pose significant risk even at very low concentrations
11 (*e.g.*, benzo(a)pyrene, arsenic, cyanide and lead).

12 The EIR’s description of existing site conditions is cursory and comprised mainly of lists of
13 historical reports on the site that were prepared for other purposes, without an effort at investigation
14 or disclosure in the EIR itself. *See* AR 1344-1352. Significantly, these older historical reports were
15 prepared in support of remedies that only involved complete encapsulation of contaminated soils.
16 Here, the opposite is contemplated: the Project will involve extensive earthwork, potentially
17 mobilizing contaminants that have been sequestered for years and exposing people and the
18 environment to the resulting risks.

19 Furthermore, the EIR ignores potential impacts of an entire category of groundwater
20 contaminants known as petroleum metabolites or hydrocarbon oxidation products (“HOPs). These
21 pollutants, derivatives of hydrocarbon compounds, are ubiquitous across the entire HT site and are
22 highly likely to be present in the groundwater that will be extracted in site dewatering operations.
23 The 2018 Five-Year Review Report⁷⁰ for the Howard Terminal recognized HOPs as a contaminant
24 of concern and stated that HOPs should be analyzed during future sampling events. HOPs were
25 analyzed during the 2019 ENGEO “data gaps” investigation⁷¹ to support the HHERA and their

26 _____
27 ⁷⁰ Baseline Environmental Consulting. (January 2018). *Final Third Five-Year Review Report.*
28 *Charles P. Howard Terminal. Oakland, California.* AR 60397-60450.

⁷¹ ENGEO Incorporated. 2020. *Site Investigation Report. Athletics Ballpark Development Howard*

1 concentrations at that time were determined to exceed San Francisco Bay Regional Water Quality
2 Control Board (“RWQCB”) screening levels for both human health risk levels and aquatic habitat
3 goal levels.⁷² Other industrial sites in the immediate Project vicinity are currently being required to
4 investigate HOPs and their potential to migrate to the Bay. Inexplicably, the EIR is silent with
5 respect to these compounds, omitting any analysis of the impacts associated with HOPs in
6 groundwater or any consideration of the ecological impacts caused by migration of these chemicals
7 to surface water. AR 0089136.

8 Petitioners raised the lack of information on HOPs in their comments. AR 9485. The City
9 responded that the potential exposure from HOPs “is evaluated by the inclusion of TPH [Total
10 Petroleum Hydrocarbons] in the gasoline, diesel, and motor oil ranges, along with constituents of
11 these mixtures (e.g., benzene and naphthalene) in the HHERA.” AR 0011466; *see also* AR
12 0087390. This cursory response is scientifically inaccurate and fundamentally incorrect. HOPs are
13 petroleum hydrocarbon degradation products; they are not hydrocarbons, as the City’s response
14 indicates. AR 0089136. The extent of HOPs contamination in groundwater beneath the Project site
15 is far greater than the extent of total estimated impacted groundwater depicted in the EIR. *See*
16 Figure 4.8-4 (AR 1349). The EIR thus failed to provide complete and accurate information about
17 these particular contaminants and the risks they present. AR 12084, 12088, 11466.

18 **(b) Inadequate Human Health and Ecological Risk Assessment.**

19 The 2020 HHERA is fundamentally deficient and fails to properly characterize risks to
20 human health and the environment from potential exposure to hazardous materials at the Project
21 site. The EIR states that the DTSC—the agency with primary regulatory responsibility over
22 contamination at the site—has already approved the Site Investigation Report and HHERA for the
23 Project. AR 1344-1345. However, this DTSC approval does not insulate those decisions from
24 CEQA review, especially since the HHERA, and the “data gaps” investigation performed to support
25 the risk assessment, were conducted outside the DTSC public participation process, with no notice or

26 *Terminal Site. Oakland, California.* (Revised April 22, 2020). AR 79271-82246.

27 ⁷² San Francisco Bay Regional Water Quality Control Board (RWQCB). *Environmental Screening*
28 *Levels.* January 2019.

1 opportunity for comment. Comments pointed out that the HHERA broadly under-estimates risk by
2 failing to provide a proper risk characterization for each of the receptors and receptor-specific
3 exposure scenarios. *See, e.g.*, AR 9485-97; 89137-38. The risk characterization is the final step in a
4 risk assessment and involves integrating the toxicity and exposure assessments into quantitative and
5 qualitative expressions of risk, providing the information necessary to understand what risks warrant
6 control and for what reasons. AR 9486. The HHERA omits the critical calculation and presentation
7 of cumulative cancer risk and noncancer hazard indices for each receptor/exposure scenario, and a
8 comparison of these quantitative estimates of risk to the regulatory risk management thresholds (*e.g.*,
9 incremental cumulative cancer risk and noncancer hazard index) that would warrant action. *Id.*

10 In response to Petitioners' comments on the HHERA, the City repeatedly falls back upon the
11 idea that the HHERA is "DTSC-approved." AR 12085. However, this "approval" does not insulate
12 the City or the EIR document from CEQA review. In fact, DTSC toxicologists in the Human and
13 Ecological Risk Office ("HERO") identified the same deficiencies in the HHERA:

14 "While the HHERA endeavors to generate risk-based target levels (TLs), ***it does not***
15 ***provide a contaminant-specific nor cumulative estimate of the magnitude of potential***
16 ***risk/hazard to inform risk management of contaminants (risk drivers), exposure***
17 ***pathways (engineering controls), or receptors of concern (institutional controls),***
18 with the exception of Table 11, Dermal Contact with Groundwater by a Future Onsite
19 Construction Worker Receptor. HERO recognizes Section 8.0 states that exposure
point concentrations are not estimated in this draft HHERA, but ***it is unclear on how***
contaminant concentrations at or greater than their respective TL will be managed
without an associated estimate of risk." AR 884096 (emphasis added).

20 Despite this criticism, DTSC staff approved the deficient HHERA, and the EIR's analysis of
21 potentially significant impacts related to hazards and hazardous materials now relies largely on this
22 deficient analysis. CEQA imposes independent assessment duties when such serious deficiencies
23 are raised.

24 Petitioners also noted that the HHERA used soil-gas-to-indoor air attenuation factors for new
25 residential and commercial construction that are orders-of-magnitude less conservative than the
26 attenuation factors recommended by DTSC and the RWQCB for screening-level assessments. *See*
27 AR 9486-87. The HHERA provides no justification or support for this deviation. The concentration
28

1 of contaminants in soil gas exceed residential and commercial screening levels across the entire site
2 (AR 1347), and this error in the HHERA results in a significant underestimation of risk from
3 exposure to indoor air. Rather than responding to this concern, the City sought to rationalize the use
4 of the less conservative attenuation factors by noting that the off-gassing soils would be overlain by
5 “new certified fill” and building foundations. AR 12085, 11464-65. This response sidesteps the
6 question posed by Petitioners’ comment and does not provide any technical basis or support for the
7 attenuation factors used. Nor does DTSC’s “concurrence” with this approach (covering the
8 contaminated soil with more dirt or with building foundations) resolve the concern as these volatile
9 compounds can and will continue to migrate upward through the soil column posing a risk.

10 The 2020 HHERA also purports to provide a current assessment of *ecological* risk, but this is
11 based largely on an outdated ecological risk assessment conducted in 2002. AR 11457-58. Not
12 surprisingly, ecological screening levels have changed significantly over the last 20 years, and
13 standards from over two decades ago are no longer protective.⁷³ The EIR’s conclusion that there is
14 no ecological risk at the site, and hence no need for groundwater remediation measures, is not
15 supported by substantial evidence.

16 Other significant deficiencies in the HHERA pointed out in comments include: (i) adequate
17 sampling has not been performed to support a risk assessment for a site of this size and complexity
18 which would typically be characterized by thousands of samples, not hundreds; (ii) estimates of the
19 lateral extent and mass of impacted soil presented in the DEIR are approximately 30% lower than
20 what was estimated in ENGEO’s 2019 Consideration of Remedial and Mitigation Alternatives,
21 leading to a significant underestimation of risk; (iii) the HHERA is missing human toxicity values
22 necessary to quantify the dose-response and risk of exposure for several chemicals; and (iv) potential
23 exposure to lead was not evaluated using blood-lead levels as an index of exposure, consistent with
24 standard practice. AR 9485-9487. Collectively, these factors and others render the HHERA

26 ⁷³ The City responds that “[g]iven that the existing site uses and conditions at Howard Terminal have
27 not changed since the ecological risk assessment was conducted, there is no information to suggest
28 that the level of ecological risk has changed.” AR 11464, 12084. Again, however, this response
ignores the significant changes in ecological screening levels over the last two decades.

1 inadequate and incomplete.

2 **(c) The EIR Unlawfully Defers Mitigation and Analysis of the Project's**
3 **Hazardous Materials Impacts.**

4 As described above, despite the existence of significant contamination at the Project site, the
5 EIR fails to adequately evaluate the potential impacts of the removal and remediation of this
6 contamination. While the EIR provides cursory discussions of conceptual approaches to
7 remediation, the public is provided with no real insight into what the likely final remedy for this
8 heavily contaminated site will be – whether most of the soil will be hauled off-site for disposal
9 (which could well be the preferred remedy for residents of West Oakland who consider the
10 redevelopment an opportunity to rid the neighborhood of a major source of contamination) or
11 whether most of it will be consolidated on-site, or some combination of the two. Furthermore, the
12 EIR provides no mitigation measures for groundwater contamination that is pervasive at the site,
13 although this is a critical component of any RAP.⁷⁴ Instead, the EIR defers critical analysis and
14 mitigation of these impacts to future “remedial design implementation plans” that will be developed
15 in accordance with a future RAP (effectively, double-deferral). AR 11467-68. The EIR relies on
16 several key documents related to site remediation, including a RAP, Operation and Maintenance
17 (“O&M”) agreements, and Land Use Covenants (“LUCs”), which would replace current remedial
18 planning documents. These documents and decisions will affect the magnitude of other impacts,
19

20 ⁷⁴ Unlike other responsible agencies for the Project, DTSC did not comment on the DEIR or seek
21 additional information about the nature or extent of soil, soil gas and groundwater contamination at
22 the site, or how the Project Sponsor planned to mitigate the significant risks posed by development—
23 even though the EIR represents that DTSC intends to rely on the EIR in considering future remedial
24 documents. AR 11469. The City’s effort to minimize public involvement in the site cleanup process
25 is evident from the DEIR, however, which states that the Project Sponsor intended to implement any
26 necessary cleanup under a so-called Removal Action Workplan (“RAW”). AR 0001386. As
27 commenters pointed out, the RAW is a streamlined process designed for small sites that can be
28 quickly and completely cleaned up by the removal of all impacted soils and that typically entail a
lower level of public participation. The DEIR made no mention of the much more applicable and
comprehensive Remedial Action Plan (“RAP”) process, with extensive opportunities for public
review and input at sites where, as here, there is a high level of concern among local community
members. Petitioners and other members of the public objected to site cleanup under a RAW
approach (AR 8255, 9484), and the FEIR abandoned that idea and committed to a RAP (AR 11458).
That should have been done long ago and, most importantly, the underlying scientific information
associated with a RAP should have been made available in the DEIR. AR 12079.

1 such as the number of trucks (and associated air emissions) carrying contaminated soil through
2 neighborhoods near the site. However, *the EIR provides almost no detail on these critical*
3 *documents*, noting that such details are “not known at this time” (AR 1386), and claiming that the
4 substantive requirements of these replacement documents would be “similar” to those in the existing
5 documents, but would be “specifically tailored to ensure protections appropriate for the type of
6 anticipated construction activity and the type of anticipated uses” (AR 11469). By deferring
7 disclosure of the critical impacts and mitigation of toxic remediation to future regulatory processes
8 after Project approval, the EIR fails to meet CEQA’s fundamental requirements.

9 The EIR provides no quantifiable mitigation measures to reduce impacts related to exposure
10 to hazardous materials during Project construction and remediation. MM HAZ-1a requires the
11 Project Sponsor to prepare a RAP, LUCs and “associated plans,” which must be submitted to DTSC
12 for review and approval “prior to Project-related grading or construction onsite.” AR 534-535.
13 While AIG must provide the City with documentation of DTSC’s approval of these plans prior to
14 grading, excavation, and/or construction permits, the EIR provides no detailed information as to
15 what the documents would require, if approved, and no analysis of how those proposed actions
16 would mitigate impacts. Thus, it is impossible for the public or public agencies to evaluate the scope
17 of work required to implement these documents and the risk to public health or level of mitigation.⁷⁵

18 Similarly, MM HAZ-1b requires AIG to “provide evidence to the chief building official of
19 DTSC concurrence that the proposed action is consistent with the RAW, LUCs, and ‘associated
20 plans’ adopted to ensure protections appropriate for the type of anticipated construction activity”
21 before issuance of any grading, building or construction permits. AR 536. MM HAZ-1b also
22 provides:

23 “Prior to issuance of a certificate of occupancy or similar operating permit for new
24 buildings and uses by the chief building official, the Project sponsor shall provide
25 evidence of **successful implementation** of protective measures to ensure protections

26 ⁷⁵ Indeed, members of the City Council appeared to express similar concerns about the transparency
27 and uncertainty surrounding DTSC’s future remedial actions at the Project site at the February 17,
28 2022 hearing. See AR 136058 (“[T]he city... and all the agency stakeholders should work together
to enable and urge full transparency in the development and implementation of the remediation
plan”); AR 136084 (raising concerns about DTSC’s implementation of future response actions).

1 *appropriate* for the type of anticipated uses, including allowing residential use under
2 specified conditions, in the form of a certificate of completion, finding of suitability for
3 the project’s intended use, or similar documentation issued by the DTSC.” *Id.*
(emphasis added).

4 While MM HAZ-1b requires “successful implementation of protective measures” it does not
5 describe what these measures will be, or provide any performance criteria for ensuring such
6 measures will be “successful” or “effective.” Such vague and open-ended mitigation, lacking any
7 commitment to specific performance standards, violates CEQA. *See, e.g., King & Gardiner Farms,*
8 *LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 856 (“Simply stating a generalized goal for
9 mitigating an impact does not allow the measure to qualify for the exception to the general rule
10 against the deferred formulation of mitigation measures”); *POET, supra*, 218 Cal.App.4th at 740
11 (broad objective to “ensure that there is no increase in NOx” was improperly deferred mitigation);
12 *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1119 (mitigation measure’s general
13 commitment to the replacement of water lost due to mine operations was improper deferral).⁷⁶

14 Similarly here, MM HAZ-1a and 1b fail to establish specific performance criteria that would
15 commit the City to mitigation that is sufficient to reduce all hazard-related risks to levels of
16 insignificance. As a result, the EIR fails to adequately disclose how site contamination would be
17 remediated, and the significant impacts to human health and the environment of those activities.⁷⁷
18 The City again points to the DTSC-approved HHERA and its “site-specific” Target Cleanup Levels
19 (“TCLs”), along with DTSC’s statutory mandate to protect human health and the environment, as
20

21 _____
22 ⁷⁶ Courts have emphasized that a plan or study “conducted after approval of a project will inevitably
23 have a diminished influence on decision making. Even if the study is subject to administrative
24 approval, it is analogous to the sort of *post hoc* rationalization of agency actions that has been
25 repeatedly condemned in decisions construing CEQA.” *CBE, supra*, 184 Cal.App.4th at 92 (citation
26 omitted).

27 ⁷⁷ *City of Maywood v. Los Angeles Unified Sch. Dist.* (2012) 208 Cal.App.4th 362 is distinguishable.
28 There, the court found that an EIR for a proposed high school project did not improperly defer
mitigation of hazardous materials impacts, where the lead agency was unable to access all parcels at
the site due to access restrictions, and therefore “practical considerations” prevented full study of
remediation and mitigation prior to project approval. *Id.* at 406; *see also id.* at 412 (noting that the
agency “had been unable to procure access agreements for 27 of the residential properties at the
project site”). Here, by contrast, there are no analogous site restrictions at the Project site, and
therefore there was no reason for the City to defer to future plans and agreements.

1 providing a sufficient legal basis for deferral of mitigation measures. *See, e.g.*, AR 11279, 11909,
2 12075. The TCLs do not provide a sufficient performance criterion when virtually all other aspects
3 of the site cleanup are left unaddressed. For example, if most of the contaminated soil will be
4 consolidated on-site, TCLs become irrelevant. Putting aside the numerous defects in the HHERA
5 discussed above, the EIR should have included, at a minimum, the most likely remedial alternatives
6 to provide the public and decisionmakers with insight into the range of issues that DTSC must take
7 into account in approving a final remedy. Factors that bear on the decision should have been set
8 forth and explained in the EIR (e.g., technical feasibility, implementation, cost, long-term
9 effectiveness, public acceptance, etc.), including how these factors are applied, how secondary
10 impacts caused by the remedial activities themselves are addressed, the public’s role in the process,
11 and myriad other issues of concern. The EIR provided no information on the RAP itself, even at a
12 conceptual level. This deficiency is made all the more glaring by AIG’s submittal of a lengthy draft
13 RAP to DTSC in January 2022, just a few weeks after the release of the Final EIR in December
14 2021, and before the February 2022 hearings.⁷⁸ The draft RAP contains information that should
15 have been included in the DEIR -- but AIG apparently chose to withhold the information from the
16 CEQA process. As a result, the EIR improperly “plac[es] the onus of mitigation on the future plan[s]
17 and leav[es] the public ‘in the dark about what ... steps will be taken, or what specific criteria or
18 performance standard will be met.’” *CBE, supra*, 184 Cal.App.4th at 93; *Californians for*
19 *Alternatives to Toxics v. Dep’t. of Food & Agriculture* (2005) 136 Cal.App.4th 1 (agency’s “sole
20 reliance” on another agency’s pesticide registration program for mitigation, without conducting its
21 own evaluation of the impacts of its proposed pesticide use, was inadequate).

22 **3. Inadequate Analysis and Mitigation of Seismic Hazards.**

23 The EIR fails to sufficiently analyze and mitigate seismic risks and related impacts from
24
25
26

27 ⁷⁸ EOSA RJN, Ex. B. This document was obtained by Petitioners through a Public Records Act
28 request to DTSC. Even being charitable, the “timing” of this is suspect.

liquefaction at the Project site.⁷⁹ As the EIR notes, the Project site “is located between two known active fault zones” and “there is potential for damage resulting from movement along any one of a number of active faults, seismic shaking, and seismically induced ground failures (e.g., liquefaction).” AR 1227.⁸⁰ The EIR also notes that “there is *a very high potential for liquefaction at the Project site.*” AR 1229 (emphasis added).⁸¹ However, the DEIR presents only one generalized geologic cross-section (Figure 4.6-2) that schematically notes the weak and liquefiable fills and sediments that underlie the Project site; these materials are described as highly variable with abrupt and unpredictable distribution. AR 1224. The EIR contains no discussion of subsurface conditions for lands that immediately surround the Project Site. As described in the Terraphase Memo, consolidation settlement combined with soil strength failure and settlement through earthquake-induced liquefaction *will not just affect the site itself, but will substantially affect the surrounding area and infrastructure*, potentially cutting off the Project site and essentially creating an island without safe transport corridors, with broken utilities, and dependent on emergency power generation. AR 9482. The EIR fails to analyze the scenario in which the Project Site and its on-site population are effectively isolated and does not identify necessary mitigation measures. *Id.*

Petitioners provided numerous comments on the DEIR’s inadequate discussion of earthquake induced liquefaction on site access, utilities, structures, differential settlement, and flooding. AR 9482-83, 89124, 89135. In response to these comments, the City largely refers to a Preliminary Geotechnical Exploration Report (“Preliminary Geotechnical Report”) provided in Appendix GEO

⁷⁹ CEQA requires that an EIR evaluate “any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area affected,” including “any potentially significant direct, indirect, or cumulative environmental impacts of locating development in areas susceptible to hazardous conditions...” CEQA Guidelines § 15126.2(a).

⁸⁰ Liquefaction is “the rapid loss of shear strength experienced in saturated, predominantly loose granular soils below the groundwater level during strong earthquake ground shaking and occurs due to an increase in pore water pressure.” AR 1229. Potential adverse impacts of liquefaction include “differential settlement, loss of ground support for foundations, ground cracking, heaving and cracking of structure slabs due to sand boiling, and buckling of deep foundations due to ground settlement.” *Id.*

⁸¹ Previous Port of Oakland hazard assessments for the Howard Terminal also concluded that structural failure due to seismically induced liquefaction is very likely. AR 9483.

1 to the FEIR (AR 4756-4952), recommending use of ground improvement and deep foundations to
2 address the risk of seismically induced settlement. However, the discussion in the DEIR is limited to
3 ground improvements *only* for the Project site footprint, and not for adjacent areas. This narrow
4 focus is retained in the post-DEIR “Liquefaction Memorandum” prepared by ENGEO (July 7,
5 2021), after the close of the public comment period, which concludes:

6 [W]hile ground surface vibration impacts are noticeable at distances of over 100 feet,
7 the Project site improvements only extends [sic] approximately 5 to 10 feet from the
8 ground improvement point. Measurable settlement or liquefaction would not occur off-
site with these ground improvement methods. AR 11928.

9 The conclusion only exacerbates the concerns regarding isolation of the Project site in the event of a
10 liquefaction event.⁸² The Liquefaction Memorandum also dismisses without substantial evidence
11 the comments regarding the differential elevation changes between the “finished” Project Site (raised
12 as mitigation for sea level rise) and the unmodified surroundings. AR 87296. During a seismic
13 event, this difference in elevation increases the severity of the potential risk. *Id.*

14 Furthermore, the EIR improperly defers mitigation related to seismic impacts and
15 liquefaction at the Project site. The only mitigation measure identified in the EIR for ground failure
16 and intense shaking is a site-specific final geotechnical report to be prepared in the future. *See* MM
17 GEO-1.⁸³ The EIR concludes that implementation of MM GEO-1 would reduce these impacts to
18 less than significant levels. AR 1237-41. But MM GEO-1 does not include any specific
19 performance criteria for the “recommended measures” to be included in the final geotechnical report.
20 The City claims that MM GEO-1 “allow[s] the City to ensure that the Project sponsor complies with
21 _____

22 ⁸² The City cites the Liquefaction Memorandum as providing “additional explanation and analysis of
23 the effects of liquefaction, along with recommendations to address liquefaction and other
24 geotechnical conditions.” AR 0011927-28. However, that document simply states that “on-site
25 liquefaction hazard will be mitigated through ground improvement,” without providing specifics or
technical support. AR 87294-96. This document was also added to the Administrative Record
following the publication of the DEIR, precluding meaningful public review and comment on this
document. *See* Section IV.G (“Recirculation”).

26 ⁸³ MM GEO-1 provides: “The Project sponsor shall submit a site-specific final geotechnical report,
27 consistent with the requirements of the CBC [California Building Code] and California Geological
28 Survey Special Publication 117 (as amended),” prepared by a registered geotechnical engineer, as a
condition of grading and construction permits. AR 519-20.

1 provisions of the California Building Code.” AR 11279. However, as discussed *supra*, general
2 deferral to presumed compliance with regulatory requirements is not sufficient. *Californians for*
3 *Alternatives to Toxics, supra*, 136 Cal.App.4th 1. “An EIR is inadequate if ‘[t]he success or failure
4 of mitigation efforts...may largely depend upon [] plans that have not yet been formulated, and have
5 not been subject to analysis and review within the EIR.” *Preserve Wild Santee, supra*, 210
6 Cal.App.4th at 281 (citation omitted). Here, the success of MM GEO-1 depends on the formulation
7 of a future plan that does not exist and has yet to be approved. The fact that the City must ultimately
8 approve the final geotechnical report does not “cure” this significant “informational defect.” *Id.*⁸⁴

9 The City points to the Preliminary Geotechnical Report incorporated into the DEIR as
10 evidence that the EIR does not defer analysis and mitigation of seismic impacts. AR 11927. As
11 discussed, the report recommends ground improvement and deep foundations to address the
12 potential for seismically-induced settlement. AR 1238. However, the report only addresses ground
13 improvements for the Project site footprint. AR 9483. It does not address the differential elevation
14 changes between the Project site in a seismic event and the unmodified surroundings as a result of
15 the additional loading of additional soil fill placed on the Project site as a mitigation for sea level
16 rise, which increases the severity of potential risk during a seismic event. *Id.* This issue is not
17 addressed in the EIR or Preliminary Geotechnical Report.⁸⁵ The potential for structural failure due
18 to seismic risks, and potential effects on the Project site, should have been evaluated in the DEIR,
19

20 ⁸⁴ *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884 is not to the contrary.
21 There, the court upheld the adequacy of mitigation for a project’s seismic impacts that relied on the
22 project applicant’s compliance with the State Building Code and other regulatory requirements, as
23 well as the preparation of a site-specific geotechnical report for each parcel. The court found the
24 mitigation adequate because, among other things, “compliance with the Building Code, and the other
25 regulatory provisions, ***in conjunction with [a] detailed Geotechnical Investigation***, provided
26 substantial evidence that the mitigation measures would reduce seismic impacts to a less than
27 significant level.” *Id.* at 904 (emphasis added). Here, as described below, the Preliminary
28 Geotechnical Report relied on in the EIR omitted significant analysis, including increased seismic
risk from differential elevation of the Project site. Therefore, the EIR does not provide substantial
evidence that seismic impacts related to liquefaction will be mitigated to less than significant levels.

⁸⁵ Prior assessments by the Port of Oakland for the HT site also identified the potential for lateral
failure of subsurface structures, such as the Quay Wall and Rock Dike. Failure and displacement of
either structure could occur regardless of ground improvement measures (AR 9483) and the potential
effects on the Project site should have been evaluated in the DEIR.

not deferred to the future final geotechnical report *after* Project approval.

4. Inadequate Analysis and Mitigation of Hydrology/Water Quality Impacts.

The EIR fails to adequately assess numerous hydrology and water quality issues, including a failure to analyze, quantify or mitigate impacts related to short-term and long-term dewatering at the Project site. As described in the EIR, the Project will require short-term dewatering of excavations during construction, and long-term dewatering under the proposed ballpark field, and possibly elsewhere on site. AR 1408, 1423. Substantial groundwater dewatering required for the Project could adversely impact local groundwater flow dynamics, recharge rates, and water quality. AR 9489. However, the impact of these dewatering activities is undefined, unquantified, and the potential mitigation is not presented in the EIR.⁸⁶ These issues are especially concerning given that groundwater under Howard Terminal and at neighboring properties is contaminated and dewatering may impact groundwater quality, including the spread of contamination to areas that are uncontaminated or less contaminated.

Petitioners' concerns regarding local groundwater flow dynamics, recharge rates, and water quality were summarily dismissed by the City with the following observation:

"The effects of groundwater dewatering during and after construction of the proposed Project were found to be less than significant with mitigation on groundwater quantity and quality, as documented on Draft EIR pp. 4.8-48 through 4.8-53 related to dewatering of contaminated groundwater for construction and remediation purposes." AR 11932.

This response is misleading and inadequate because the mitigation measures presented in the EIR do not discuss the impacts *of* dewatering and do not present mitigation of such impacts. Rather, dewatering is mentioned in two places under MM HAZ-1a (Preparation and Approval of Consolidated RAW, LUCs and Associated Plans):

- RAW – states that the RAW [now the RAP] will describe procedures for managing, storage, and disposal of dewatering effluent. AR 1386.

⁸⁶ Specifically, the dewatering pumping rate has not been quantified, through modeling or other means; the impact of groundwater pumping on neighboring properties is not mentioned or evaluated; and due to sea-level rise, the amount of pumping required will increase over time, an impact that is neither discussed nor evaluated. AR 89139.

- O&M Plan – states that the O&M Plan will describe operations for “as-needed drainage of groundwater.” AR 1387.⁸⁷

These statements do not address the impact of the dewatering on groundwater resources and neighboring properties. After the DEIR comment period closed, the Project Sponsor retained ENGEO to prepare a memorandum addressing planned dewatering activities, presumably to respond to Petitioners’ comments. *See* AR 87128-29. This memorandum provides “requirements for construction dewatering plans” and raises other issues that were not presented in the DEIR (*e.g.*, that dewatering may affect “existing adjacent improvements” and that the potential for such impacts needs to be evaluated at a future time). The memorandum does not address the key concerns discussed above. In fact, the memo states that dewatering “should not result in impacts to regional groundwater flow *though these impacts **should be evaluated** to confirm the system planned will not cause permanent impacts to groundwater elevation or flow.*” AR 87129 (emphasis added). This after-the-fact memo validates the very concern Petitioners raised—that dewatering can affect groundwater quality and distribution of contaminants—but fails to include any additional analysis of the issue. Yet again, it is an issue improperly deferred to future study.

5. The EIR Unlawfully Defers Mitigation of Wind Impacts.

The EIR acknowledges that wind generated by the new buildings at the Project site will create a significant impact at the Project level and cumulatively. AR 874, 452 (CEQA findings). However, the only mitigation measure identified is to submit future wind analyses to the City for approval before obtaining a final building permit for each applicable building, improperly deferring analysis and mitigation of these significant impacts. MM AES-1 requires that for any building within the Project site proposed to be 100 feet or higher, the Project sponsor must prepare a wind

⁸⁷ As discussed above, these plans and agreements do not currently exist, and their contents and requirements are currently unknown. Therefore, the engineering, technical and logistical parameters of the remedial action, and impacts to groundwater quality, cannot be evaluated because they are deferred to non-existent studies and evaluations. Allowing these measures to be developed by AIG at a later time “fails to adequately inform the public and decisionmakers, prior to project approval, of the nature and efficacy of the proposed mitigation measures that will be undertaken.” *San Joaquin Raptor, supra*, 149 Cal.App.4th at 683.

1 analysis conducted by a qualified wind consultant. MM AES-1 provides: “If the wind consultant
2 demonstrates *to the satisfaction of the Bureau of Planning* that the modified design would not
3 create a net increase in hazardous wind hours or locations under partial buildout or buildout
4 conditions, compared to then-existing conditions, no further review would be required.” AR 486
5 (emphasis added). This measure would defer mitigation of wind impacts to the City’s discretion
6 without establishing any specific performance standards.⁸⁸ As noted, courts have rejected such
7 open-ended, discretionary performance criteria based entirely on a public agency’s discretion.⁸⁹

8 **6. The EIR’s Analysis and Mitigation of Land Use Conflicts Were Inadequate.**

9 The EIR identified significant Project-related and cumulative land use impacts resulting from
10 the Project’s conflicts with nearby Port uses, industrial-related uses, and water-based uses. AR 437-
11 439 (LUP-2: Land Use Compatibility and Impact LUP-1.CU: Cumulative Land Use Impacts). Under
12 the City’s CEQA significance threshold, a significant land use impact occurs when a project results
13 in a “fundamental conflict” with adjacent or nearby land or water-based uses so that their “functional
14 use” is imperiled. AR 437. The City noted that “Seaport operations” are especially sensitive to
15 transportation delays, and “a level of traffic congestion or vehicular delay that might be acceptable to
16 typical residential or commercial development may result in a significant disruption to Seaport
17 operations,” which in turn, “could result in loss of business and imperil Seaport functioning.” *Id.*
18 Similarly, the Project’s increased recreational boating activity, including, but not limited to,
19 congregating during ballgames in the channel and Inner Harbor turning basin, “could result in a
20 fundamental conflict between the Project and adjacent or nearby water-based uses, including
21 maritime navigation and ferry transit.” *Id.*, AR 1475. In addition, cumulative residential
22 development in proximity to Port and industrial operations, including under the Downtown Oakland

23 ⁸⁸ The criteria of no “net increase” to the “extent feasible” compared to “then-existing” conditions
24 hardly establish a fixed performance standard. Wind hazards for each building would be mitigated
25 only to an extent that would not “unduly restric[t] development potential,” thus rendering the
26 mitigation measure impermissibly vague and without any standard at all. AR 452, 486.

27 ⁸⁹ See *Endangered Habitats League, Inc. v. County of Orange, supra*, 131 Cal.App.4th 777, rejecting
28 mitigation measure requiring project sponsor to submit acoustical report demonstrating structure
design to meet noise standards “satisfactory to the manager of the county’s building permit
division,” because the measure “[did] no more than require a report to be prepared and followed, or
allow approval by a county department without setting any standards.”

1 Specific Plan or the West Oakland BART Redevelopment Project, and development in the Oakland
2 Inner Harbor, Jack London Square, the Port of Oakland, Downtown Oakland, West Oakland, and the
3 north shore of Alameda in combination with the Project could result in conflicts with nearby Port
4 uses, water-based uses, such as maritime navigation, and industrial-related uses if they collectively
5 “impede” access to the Port or result in other physical impacts that collectively “impair” the Port’s
6 operation. AR 439.⁹⁰

7 The EIR determined that five mitigation measures⁹¹ would mitigate Project-related and
8 cumulatively significant land use impacts to a less than significant level. AR 437-39. However,
9 those measures will not fully mitigate impacts. MM LUP-1a requires a “protocol”—another plan to
10 plan—with measures to “minimize conflicts with maritime navigation” (safety hazards and ship
11 delay) prior to and during baseball games, concerts and other “large events” *only*, but there is no
12 mitigation for recreational boating conflicts outside those event hours or a requirement that
13 navigation conflicts be eliminated or reduced to any enforceable performance standard. AR 544.⁹²
14 Furthermore, while there is no indication that the requirements of this measure—including the
15 increased water-based patrols by the Oakland Police Department—will be feasible in the first
16 instance, the protocols are subject to future revision at the discretion of the City. CEQA prohibits
17 such “loose or open-ended” mitigation measures. *Center for Biological Diversity v. Dep’t. of Fish &*
18 *Wildlife* (2015) 234 Cal.App.4th 214, 240-41; *King & Gardiner Farms, supra*, 45 Cal.App.5th at
19 859-60 (rejecting mitigation measure requiring parties to “work together to develop and implement a
20 plan identifying new measures to reduce” impacts).

21
22 ⁹⁰ The City does not acknowledge the full confluence of traffic (Port traffic, all construction-related
23 traffic including for overcrossings and relocation of utilities and cumulative traffic) that “may
24 temporarily reduce capacities of roadways” (over several years), including potential vehicle travel
lane closures and improperly defers mitigation to a construction traffic plan to be prepared that
“would manage the movement of vehicles” and purportedly would not adversely affect the level of
service of nearby roads. AR 447-448.

25 ⁹¹ LUP-1a (boating and recreational water safety protocol); LUP-1b (lighting feature design); LUP-1c
(land use siting and buffers); and TRANS-1a (TPDMP) and TRANS-1b (TMP), discussed above.

26 ⁹² The City disregarded the requests of the Harbor Safety Committee, San Francisco Bar Pilots, State
27 Board of Pilotage Commissioners, and others, including certain of the petitioners, that the Harbor
28 Safety Committee, along with other agencies, be approving parties for the protocol to be effective.
AR 11765, 11327, 8005 (SF Bar Pilots letter), 8418-19 (Harbor Safety Committee letter), 89201
(EOSA letter), 9893 (PMSA letter).

1 Similarly, MM TRANS-1b requires, among other things, a TMP with the “high level
2 objective” to “minimize conflicts” with Seaport operations, including freight movements by
3 roadway. AR 568-569, 11325. However, the vague goal of “minimizing” disruptions does not
4 establish a performance standard that would sufficiently mitigate these impacts to an acceptable
5 level of “traffic congestion and vehicular delay.”⁹³ MM TRANS-1a also requires a TPDMP but
6 does not specify the scope of such plan (which “could” cover the ballpark or additional development
7 in the Jack London District and “potentially downtown”). AR 557.⁹⁴

8 The EIR also relies, in part, on the assertion that the Project site has “very good” transit
9 access to mitigate significant transportation and circulation impacts through the TMP and TPDMP.
10 *E.g.*, AR 11513. However, the comments submitted by both AC Transit and BART dispute such a
11 conclusion, as the EIR’s plans incorporate measures without demonstrating they are feasible,
12 including as to implementation cost. The EIR dismisses concerns BART’s concerns regarding safety
13 impacts of limited vertical circulation elements at BART stations, queuing issues, and overcrowding
14 on station platforms and crowd control. AR 11488-11492. The FEIR states that “operational
15 strategies may be necessary” to address overcrowding as implemented by “BART personnel or other
16 personnel acceptable to BART.” AR 11492, 11533 (BART personnel or other personnel required to
17 manage event attendees accessing three stations to “ensure safe and efficient access”). However,
18 there is no evidence of feasibility, including cost. *Id.*, AR 11495, 11499 (additional staffing and
19 higher costs required and no evidence BART has resources to deploy “required” personnel), 11753-

20
21 ⁹³ “Minimizing” impacts is not a sufficient performance standard and improperly avoids mitigation
22 of all potentially significant impacts. *See* AR 11326-11327. Moreover, the requirement for water-
23 based OPD patrols to “remove” activity that is not in compliance with applicable laws, regulations,
24 and rules governing navigation in the shipping/ navigation channel and to “ensure” that no activity
25 impedes maritime navigation only applies to times during and “reasonably” prior and subsequent to
26 “large” events (AR 11328) but not any other moderate or smaller events or Project features that
27 could attract recreational boating activity (including the massive development and Waterfront Park).

28 ⁹⁴ As discussed, AIG and the Port are “negotiating” SCMs, meaning “measures, designs, and
operational standards to ensure that the Project would not affect or interfere with the Port’s use or
operations outside of the Project,” including “measures to ensure that the Project minimizes
vehicular congestion from the Project and avoids conflicts between vehicular and pedestrian traffic
generated by the Project with Port seaport operations, including cargo truck routes and traffic.” AR
11330-11331. If the Project adopted sufficient mitigation measures for those impacts, the SCMs
would be unnecessary. Moreover, there is no guarantee that any deferred SCMs will be adopted or
will be effective as they must be agreed to by AIG. *See also* AR 11977-11978.

1 11754. AC Transit also commented that it does not have sufficient funding to accommodate the
2 Project's transportation demands and the EIR responds by deferring mitigation. AR 11500, *et seq.*,
3 11531.⁹⁵

4 Furthering the City's excessive deference to the Project Sponsor, there is no required
5 performance standard to reduce light and glare navigation hazards to a safe level. AR 546. MM
6 LUP-1b allows any lighting design "necessary to meet market demand and expectations of an MLB
7 ballpark" (prioritizing ballpark needs over shipping lane safety from light and glare impacts), and a
8 supplemental technical report would be required only if the ballpark lighting design is changed so
9 that "light and glare levels in the shipping channel or Inner Harbor Turning Basin would be
10 substantially different" (whatever that means) than analyzed in a submitted report. The City abused
11 its discretion by failing to adequately mitigate these significant environmental impacts.

12 **7. The City Failed to Analyze Cumulative Impacts.**

13 An EIR must discuss a cumulative impact if the project's incremental effect combined with
14 the effects of other projects is "cumulatively considerable." CEQA Guidelines §15130(a). A
15 project's incremental effects are "viewed in connection with" the effects of past and current projects,
16 "and the effects of probable future projects." *Id.*, §15065(a)(3).

17 As described above, the Port is moving forward with a CEQA process for the Turning Basins
18 Widening project which will affect portions of the HT Project site. The EIR improperly avoided any
19 environmental review of the cumulative impacts of the HT Project and the TBP because the City
20 determined that "an expanded turning basin is still being assessed in terms of feasibility, [and] it is
21 not considered a cumulative project in this Draft EIR." AR 11333. However, the fact that an
22 environmental and feasibility study was *underway* but not completed in final form and a notice of
23 preparation of an EIR had not yet been prepared at the time the Project EIR was released (AR
24

25 ⁹⁵ Mitigation measures include extending transit service "in coordination with AC Transit," optional
26 "additional regular AC Transit bus service" connecting the Project site to BART stations and
27 downtown, supplemental shuttle service potentially provided by AC Transit, and coordination with
28 AC Transit and others to provide "timed transit service." AR 11531-11532; *see also* AR 11556
(supplemental shuttle service "if provided"). Similarly, expanded ferry service is not definite. AR
11649-11650.

1 11333)⁹⁶, did not excuse the City from treating the TBP as a probable future project and analyzing
2 its potential cumulative environmental impacts. To the contrary, the Port’s ability to widen the
3 turning basin was specifically reserved as a component of the HT Project term sheet, as the Port has
4 the right, between May 2024 and May 2029, to terminate AIG’s development rights for up to 10
5 acres of HT Project site, to accommodate the TBP. AR 15890. Cumulative impacts, including air
6 emissions and other impacts, would occur at the *same location* and during the same timeframe as the
7 HT Project, and must be analyzed and mitigated if significant.⁹⁷ This is yet another failure to
8 reasonably investigate before publishing a draft EIR.

9 **F. The City’s Analysis of Alternatives is Insufficient.**

10 The EIR’s treatment of Project alternatives suffered from three main deficiencies: (i) an
11 artificially narrow set of Project objectives designed to preclude anything but a “waterfront-only”
12 location at Howard Terminal; (ii) based on this purported need for a waterfront location, an
13 inadequate identification, evaluation and comparison of only one off-site alternative (the Coliseum
14 Area Alternative);⁹⁸ and (iii) a cursory analysis of Alternative 3 (Single Grade Separation) that the
15 City ultimately adopted.

16 An EIR must discuss alternatives “to the project, or to the *location* of the project, which
17 would feasibly attain *most of the basic* objectives of the project but would avoid or substantially
18 lessen any of the significant effects of the project, and *evaluate the comparative merits* of the
19 alternatives,” even if the alternatives “would impede to some degree the attainment of the project
20 objectives.” CEQA Guidelines § 15126.6(a), (b) (emphasis added). The EIR must include sufficient
21 detail to allow “meaningful evaluation, analysis, and comparison” with the proposed project. CEQA
22 Guidelines § 15126.6(d). With regard to alternative locations, the “key question” is whether any of

23 _____
24 ⁹⁶ In June 2022, the Port released an NOP for the TBP. EOSA RJN, Ex. C.

25 ⁹⁷ For example, the CEQA findings state that the “Project, in combination with other past, present,
26 existing, approved, pending, and reasonably foreseeable future projects within and around the
27 Project area, could have a considerable contribution to any cumulative impacts related to biological
28 Resources,” including significant impacts on marine biological resources. AR 420-421. But the
Project’s impacts in combination with the TBP impacts were not analyzed at all. AR 421.

⁹⁸ The DEIR identified four alternatives: Alternative 1 (No Project), Alternative 2 (Off-Site
Coliseum Area), Alternative 3 (Proposed Project with Grade Separation), and Alternative 4
(Reduced Project Alternative). AR 221.

1 the project’s significant effects would be “avoided or substantially lessened by putting the project in
2 another location.” *Id.*, § 15126.6(f)(2).⁹⁹ The lead agency “should not approve a project as
3 proposed if there are feasible alternatives” that would “substantially lessen any significant effects
4 that the project would have on the environment.” *Id.*, § 15021(a). Furthermore, an EIR may not
5 define project objectives so narrowly as to preclude consideration of reasonable alternatives. *North*
6 *Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 668; CEQA Guidelines
7 § 15124(b).

8 **1. The Evaluation of the Coliseum Alternative was Inadequate.**

9 Here, the EIR identified the Oakland Coliseum site as an alternate location for the project,
10 with development of the “same mix and density of uses that are proposed with the Project,” and
11 resulting in significantly fewer environmental impacts than the Project at Howard Terminal. AR
12 222-223, 11405-11406 (Coliseum site would avoid at least nine significant and unavoidable
13 impacts). However, the EIR’s narrow focus on a “waterfront” location near Jack London Square¹⁰⁰
14 resulted in a cursory and misleading analysis of the Coliseum Area Alternative and comparison of its
15 potential environmental impacts with the proposed Project.

16 For most impact areas, the DEIR summarily concluded that impacts would be “similar” to
17 those of the proposed HT Project, without analyzing or comparing Alternative 2’s potential impacts.
18 See AR 9448-9449 (Analytical Environmental Services [“AES”] Report, April 26, 2021). For
19

20 ⁹⁹ The CEQA Guidelines provide examples of projects that could not feasibly be moved to another
21 location, including a “geothermal plant or mining project which must be in close proximity to natural
22 resources at a given location.” CEQA Guidelines § 15126.6(f)(2)(B). Here, there is no need for a
baseball stadium and mixed-use development to be located within the Port as these uses are not
water-dependent (and instead conflict with water-dependent and existing infrastructure-dependent
uses).

23 ¹⁰⁰ As described above, the Project objectives were narrowly drawn, so as align only with AIG’s
24 predetermined HT location. These objectives included constructing a “waterfront” ballpark, creating
a “waterfront destination” and “waterfront district,” “[c]onstruct[ing] a new ballpark for the Oakland
25 Athletics on Oakland’s waterfront,” and increasing “public use and enjoyment of the waterfront.”
AR 221. This narrow set of project objectives precluded full, informed consideration of reasonable
26 alternatives. See, e.g., *We Advocate Through Environmental Review v. County of Siskiyou* (2022) 78
Cal.App.5th 683 (agency’s project objectives for water bottling plant project were too narrowly
27 drawn, where county defined project objectives as operating the project as proposed by the applicant
at an existing bottling plant site “as soon as possible,” thereby precluding full consideration of
28 alternatives and informed public participation).

1 example, the EIR simply “assumes” that air emissions from extensive remediation activities at the
2 HT site and emissions from grading activities at the less-contaminated Coliseum site would
3 somehow “net out.” AR 12075, 89202, 11409 (stating grading of “120 acres” for the same
4 development footprint on approximately 50 acres at the Coliseum location would “off-set” the
5 extensive remediation emissions at HT). There is no evidence whatsoever to support that illogical
6 assumption, and the EIR makes no effort to quantify such emissions. Indeed, as demonstrated by the
7 Terraphase Memo, the assumption is patently unreasonable. AR 9481, 9491-9492; *see also* AR
8 9448-9449. The EIR also concludes that “impacts related to hazards and hazardous materials under
9 Alternative 2 would be . . . similar to the proposed Project with mitigation.” AR 2149. That is
10 obviously not the case. Subsurface contamination at the HT site is much more extensive laterally,
11 and more pervasive, than contamination at the Coliseum site. AR 9491, 9448-49, 11411, 12092-93,
12 11941. Other environmental impacts would plainly be more severe at the HT site than at the
13 Coliseum, including effects associated with land use conflicts and transportation/circulation issues at
14 the working seaport. This is also true as compared to the selected Alternative 3. Indeed, the EIR’s
15 analysis of Alternative 2 improperly relies mostly on outdated analysis taken from an earlier
16 proposed ballpark project (Alternative 2C from the Coliseum Area Specific Plan [“CASP”] EIR).
17 AR 2144.¹⁰¹

18 The Project Sponsor made belated attempts on January 14, 2022, after the FEIR was issued
19 and just prior to the public hearings, to portray the Coliseum site as “infeasible” based on
20 purported direction from Major League Baseball (“MLB”) and alleged uncertain control over the
21 site. AR 88950-88958. Not only was that late-submitted new information lacking public review,
22 there was no clear statement that MLB was somehow prohibiting development of a *new redeveloped*
23

24 ¹⁰¹ The DEIR states that the “analysis of potential impacts draws on information and analysis in the
25 CASP EIR with regard to Alternative 2C, which is similar but not identical to the Off-Site
26 Alternative evaluated here” and therefore “the analysis in this section estimates impacts that vary
27 somewhat from those identified in the CASP EIR.” AR 2144. See Table 6-1, comparing
28 development under Alternative 2 and CASP EIR Alternative 2C. *Id.* There are several differences:
for example, the ballpark under CASP Alternative 2C would have a 39,000-seat capacity, vs. the
35,000-seat capacity under Alternative 2, and Alternative 2C would have 4,000 dwelling units, vs.
the 3,000 units under Alternative 2. *Id.*

1 ballpark at the Coliseum location. AR 88951. Nonetheless, the City stated in its CEQA findings for
2 the first time that the Oakland Coliseum Alternative “does not meet Major League Baseball (MLB)
3 standards for a ballpark location because MLB has stated the Coliseum site is not a viable location
4 for a new MLB ballpark” and control over the site might not be feasible. AR 286. No evidence was
5 cited for that conclusion, other than a self-serving reference to AIG’s own January 14, 2022 letter.
6 Laying bare the City’s failure to provide full good faith, public disclosure earlier in the
7 environmental review process, or to seriously consider an off-site Project alternative, the City stated
8 in responses to comments that the FEIR “will provide some but not all of the evidence presented to
9 decision makers at the time they are asked to decide whether to approve the proposed Project.” AR
10 11400, 11415.

11 In this case, the after-the-fact claim that the Coliseum site is infeasible precluded meaningful
12 evaluation of Alternative 2 in the City’s decision-making process. The consideration of project
13 alternatives is a cornerstone of CEQA review, and all such evidence regarding alleged infeasibility
14 of Alternative 2 should have been presented to the public in the DEIR in 2021, and tested out
15 through the normal public review and comment process, prior to certification of the EIR. Such
16 withholding further compounds the disparity between the much greater impacts that would occur
17 with the Project at the HT Site, as compared to impacts that would occur with Alternative 2. *E.g.*,
18 AR 287-288 (limited discussion). This error was prejudicial, precluding informed decision-making
19 and public participation. *See We Advocate Through Environmental Review, supra*, 78 Cal.App.5th
20 683

21 **2. The EIR’s Analysis and Findings Concerning Alternative 3 Were** 22 **Insufficient.**

23 The City Council found that having “considered alternatives” to the Project and based on
24 “substantial evidence in the record,” the Proposed Project with Grade Separation Alternative
25 (Alternative 3) “is the best alternative that can be feasibly implemented.” AR 217. However, the
26 EIR does not provide evidence that an overcrossing “within the public right-of-way and the railroad
27
28

1 corridor” is even feasible (much less that only one overcrossing is feasible). AR 223.¹⁰² To the
2 contrary, the DEIR stated that “the potential feasibility of grade-separation alignments and design
3 options could be affected by the need to preserve access to nearby land uses” without further
4 evaluation. AR 2163. The findings also state that Alternative 3 would provide “significant public
5 and safety benefits” that the “other alternatives” (including the Coliseum Area Alternative) would
6 not provide because the grade crossing would connect the waterfront to the City street grid. AR 220.
7 However, this is hardly a “safety” benefit when the City acknowledged that transportation-related
8 hazards will remain significant and unavoidable at the HT location. AR 230.¹⁰³

9 The City also made a finding that the impacts of Alternative 3 were analyzed in the EIR “in
10 sufficient detail” to analyze the reasonably foreseeable impacts of the Alternative. AR 220, 278; *see*
11 AR 2152-2165 (Draft EIR, Chapter 6). However, the DEIR made conclusory statements that
12 Alternative 3 would increase already significant and unavoidable impacts under the proposed
13 Project, but made no effort to quantify or evaluate those impacts. For example, the DEIR states that
14 Alternative 3 will result in “*substantial additional construction activities*, potentially including the
15 use of drilled or driven piles for construction of the overcrossing” (emphasis added), so that the
16 “severity of three significant and unavoidable” noise and vibration impacts would “potentially
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20 ¹⁰² As discussed earlier, the City still has not selected a fixed location for the one grade-separated
21 vehicle-only overcrossing. AR 220. However, with either of the two identified potential locations,
22 the grade crossing would require additional excavation for utility relocation and construction, require
23 private and public property acquisition, block access to some driveways, alter circulation patterns
24 and “may affect a number of parcels and businesses in the area” (including by overhead
25 encroachment, modification of existing intersections, acquisition of right-of-way, and others), in
26 addition to construction of the structure itself. *Id.* The findings indicate that “[i]n some cases,” but
27 apparently not all, the driveways affected by each alignment represent “a second means of
28 access/egress to a large parcel, or could be relocated to another street frontage.” AR 220. There is
no discussion of parcels that could become landlocked.

¹⁰³ The City’s finding that Alternative 3 “will reduce existing vehicle conflicts with the adjacent rail
line” is inaccurate as the Project under Alternative 3 would result in significant unavoidable and
permanent conflicts with the adjacent rail line. AR 465, 475. Similarly, the City’s finding that
Alternative 3 would provide significant safety “benefits” for vehicular, pedestrian, and bicycle traffic
is not supported, nor is the City’s finding that the Alternative would “facilitate the continued success
of the Port of Oakland by enabling safer and more efficient freight movement” (AR 485).

1 increase” (including to at least one nearby sensitive receptor). AR 2163.¹⁰⁴ Yet, the magnitude of
2 those impacts is not disclosed or evaluated. *Id.* The CEQA findings merely conclude that the
3 severity of impacts under Alternative 3 “would be similar” to the proposed Project. AR 459. Since
4 a major over-crossing is not a minor thing, this makes no sense. Without explanation, the DEIR also
5 states that significant and unavoidable cumulative impacts from “roadway traffic noise” and the
6 cumulative “contribution to increased noise due to Project-related traffic” would “remain
7 unchanged” (*id.*), even though the overcrossing would provide the main vehicle crossing route and
8 noise impacts along that corridor and at the height of the overcrossing would certainly change. As
9 discussed above, that is insufficient under CEQA. *Galante Vineyards v. Monterey Peninsula Water*
10 *Management Dist., supra*, 60 Cal.App.4th at 1123 (EIR’s acknowledgement that an impact would be
11 significant and unavoidable after mitigation was inadequate and a more detailed analysis of the
12 *magnitude* of the adverse impact was required).¹⁰⁵

13 The DEIR speculates that increased GHG impacts of Alternative 3 “could be reduced to less
14 than significant (i.e., no net additional GHG emissions) with implementation of the mitigation
15 measure included in Section 4.7, Greenhouse Gas Emissions.” AR 2161. However, there is no
16 analysis of how that reduction will be achieved. Moreover, the DEIR omits any analysis whatsoever
17 of bird collision impacts related to overcrossing lighting (AR 2159) and additional light and glare
18 impacts; identified “additional energy use” for additional excavation and construction (AR 2160); or
19 hydrology and water quality impacts (AR 2162). It contains only a cursory mention of liquefaction,
20 seismic, and erosion hazards without a geotechnical analysis (AR 2161); of hazards and hazardous
21

22 ¹⁰⁴ Impact NOI-1, temporary or periodic increases in noise from construction; Impact NOI-2,
23 groundborne vibration during construction; and Impact NOI-1.CU, contribution to cumulative
24 temporary or periodic increases in noise levels due to construction. AR 2163, 460 (two nearby
25 cumulative projects could also entail pile driving and construction at the same time as the Project).
Noise and vibration impacts from the extensive activities related to relocation of utilities are not
addressed at all. Indeed, the entire noise analysis consists of three sentences on about 1/3 of a page.
AR 2163.

26 ¹⁰⁵ The City’s CEQA findings also state that Table 6-5 (AR 2183, et seq.) shows the additional air
27 quality emissions for “excavation and construction that would be required to build the grade
separated crossing” (AR 453), but *not* with regard to the significant activities required to relocate
substantial utilities.

1 materials, with deferral to unknown regulatory requirements or plans (AR 2162); and of impacts
2 related to the significant relocation of “multiple existing utilities” (storm drain, sanitary sewer,
3 domestic water, gas, electrical, and communications utilities, including “significant communication
4 lines” and the need to “work around” a sanitary sewer line for one alignment) without any analysis
5 and only a deferral to “existing laws and regulations” to purportedly reduce impacts to “less than
6 significant” (AR 2164). This was all insufficient under CEQA.

7 **G. The City Failed to Revise and Recirculate the EIR After Adding Significant New**
8 **Information to the Public Record.**

9 CEQA requires a lead agency to revise and recirculate an EIR when “significant new
10 information” is added after notice of public review has been given, but before final certification. *See*
11 CEQA § 21092.1; CEQA Guidelines § 15088.5. Recirculation is required, for example, where
12 significant new information shows there may be a new significant impact from the project or from a
13 new mitigation measure or a substantial increase in the severity of an impact. *Id.*, § 15088.5(a)(1)-
14 (3). Recirculation is also required where an agency fails to incorporate significant new information
15 about a project’s potential environmental impacts into the EIR prior to certification of the EIR
16 (*Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95), or where a Draft EIR is fundamentally
17 inadequate and conclusory in nature such that meaningful public review and comment are precluded.
18 CEQA Guidelines § 15088.5(a)(4); *see Laurel Heights Improvement Assn. v. Regents of University*
19 *of California* (1993) 6 Cal.4th 1112, 1130.

20 Here, the level of post-DEIR significant new information is striking remarkable. A list of
21 such new reports and documents is attached as Appendix A. Some were released after the DEIR but
22 before certification; others were released with the FEIR; and still others after the FEIR was issued
23 but before certification. All told, the City added nearly 1,000 pages of new information to the record
24 *after* the public comment period had closed addressing important Project impacts. AR 89198, 89204-
25 89208. While not every new document requires recirculation, many of them are complex and
26 lengthy reports that should have been made public with the DEIR. Cumulatively, it is far too much
27 to withld form the DEIR process.

28 As just one example, in July 2021, soon after the DEIR comment period closed, AIG’s

consultant BKF released an 85-page technical memorandum titled “Howard Terminal Grade Separation Alternatives Feasibility Study.” AR 87302-386. The “study” contains significant new analysis, accompanied by numerous diagrams and photographs, that were not included in the DEIR or elsewhere in the public record. For months after the close of the DEIR comment period, the City continued to release such technical memoranda regarding significant impact areas, including new analysis on dewatering (AR 7128-7129); liquefaction (87294-87296); stormwater drainage and flow (87482-87497; 87770-87786); grade separation (87302-87386); hazardous materials remediation (87387-87390; 87391-87395); sea level rise (87396-87419; 87966-87974); air quality mitigation (88191-88360); alternatives (88950-88958) and numerous others. Even a brief review of many of these reports show they are not mere minor supplementation as the City claims; rather they were intended to fill important gaps in the record, but in a manner avoiding full public review and comment. Surely, this is not how CEQA is supposed to work and the EIR needs to be revised and recirculated.

V. CONCLUSION.

For all the reasons given, Petitioners respectfully request that the Court issue judgment in their favor and grant all relief sought in the Petitions.

Dated: June 27, 2022

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: /s/ Ronald E. Van Buskirk

RONALD E. VAN BUSKIRK

Attorneys for Petitioners EAST OAKLAND
STADIUM ALLIANCE, PACIFIC
MERCHANT SHIPPING ASSOCIATION,
HARBOR TRUCKING ASSOCIATION, and
SCHNITZER STEEL INDUSTRIES, INC.

Dated: June 27, 2022

PACIFIC MERCHANT SHIPPING ASSOCIATION

By: /s/ Michael Jacob

MICHAEL JACOB

Attorney for Petitioner PACIFIC
MERCHANT SHIPPING ASSOCIATION

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Dated: June 27, 2022

LEONARD CARDER, LLP

By: /S/ Eleanor Morton
ELEANOR MORTON

Attorney for Petitioner INTERNATIONAL
LONGSHORE AND WAREHOUSE UNION

1 **PROOF OF SERVICE**

2 I am employed in the City and County of San Francisco, State of California, in the office of a
3 member of the bar of this Court, at whose direction the service was made. I am over the age of
4 eighteen years, and not a party to the within action. My business address is Pillsbury Winthrop
5 Shaw Pittman LLP, Four Embarcadero Center, 22nd Floor, San Francisco CA 94111. On June 28,
6 2022, I served the document(s) titled:

7 **AMENDED [to include Appendix A] PETITIONERS' JOINT OPENING BRIEF**

8 on the parties in this action as follows:

9 Timothy D. Cremin
10 Email: tcremin@meyersnave.com
Shaye Diveley
11 Email: sdiveley@meyersnave.com
MEYERS NAVE
12 1999 Harrison Street, 9th Floor
Oakland, CA 94612
13 Tel: (510) 808-2000
Fax: (510) 444-1108

*Attorneys for
CITY OF OAKLAND, a municipal corporation,
and CITY COUNCIL OF THE CITY OF
OAKLAND, Respondents*

14 Barbara J. Parker, City Attorney
15 Email: BParker@oaklandcityattorney.org
Maria S. Bee, Chief Assistant City Attorney
16 Email: MBee@oaklandcityattorney.org
Bijal Patel, Special Counsel
17 Land Use and Real Estate Units
Email: BPatel@oaklandcityattorney.org
18 OAKLAND CITY ATTORNEY
One Frank Ogawa Plaza, 6th Fl.
19 Oakland, California 94612
Tel.: (510) 238-3601; Fax: (510) 238-6500

20 Mary G. Murphy
21 GIBSON DUNN & CRUTCHER LLP
22 555 Mission Street, Suite 3000
San Francisco, CA 94105-0921
Email: MGMurphy@gibsondunn.com

*Attorneys for
OAKLAND ATHLETICS INVESTMENT
GROUP, LLC, Real Parties in Interest*

23 Whitman F. Manley
24 Christopher L. Stiles
REMY MOOSE MANLEY LLP
25 555 Capitol Mall, Suite 800
Sacramento, CA 95814
26 Email: wmanley@rmmenvirolaw.com
cstiles@rmmenvirolaw.com

D'Lonra Ellis
Chief Legal Officer
The Athletics Investment Group LLC
55 Harrison Street
Oakland, CA 94067
Email: dellis@athletics.com

Charity Schiller
Email: charity.schiller@bbklaw.com
Sarah E. Owsowitz
Email: sarah.owsowitz@bbklaw.com
Tiffany M. Michou
Email: tiffany.michou@bbklaw.com
BEST BEST & KRIEGER LLP
3390 University Avenue, 5th Floor
P.O. Box 1028
Riverside, California 92502
Telephone: (951) 686-1450
Facsimile: (951) 686-3083

Mary Richardson
Port Attorney
Email: mrichardson@portoakland.com
Kimberly McIntyre
Deputy Port Attorney
Email: kmcintyre@portoakland.com
PORT OF OAKLAND
530 Water Street
Oakland, California 94607
Telephone: (510) 627-1205
Facsimile: (510) 444-2093

Attorneys for Real Party in Interest CITY OF OAKLAND, a municipal corporation, acting by and through its BOARD OF PORT COMMISSIONERS, erroneously sued and served as PORT OF OAKLAND, a department of the CITY OF OAKLAND, acting by and through its BOARD OF PORT COMMISSIONERS

☐ **(BY MAIL)** I caused each envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, CA. I am readily familiar with the practice of Pillsbury Winthrop Shaw Pittman LLP for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

☒ **(BY EMAIL TRANSMISSION)** The above-referenced document was transmitted via electronic transmission to the persons at the electronic-email addresses indicated above.

☐ **(BY PERSONAL SERVICE)** I delivered to an authorized courier or driver authorized by ExpressNetworks to receive documents to be delivered on the same date. A proof of service signed by the authorized courier will be filed forthwith.

☐ **(BY OVERNIGHT COURIER)** I am readily familiar with the practice of Pillsbury Winthrop Shaw Pittman LLP for collection and processing of correspondence for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained by Federal Express for overnight delivery.

1 I declare under penalty of perjury that the foregoing is true and correct. Executed
2 June 28, 2022, at San Francisco, California.

3
4 Tina Bishop
Tina Bishop

Appendix A

1. New Information Released After Close of DEIR Comment Period and Before Publication of FEIR

Date	Document Title	Description	Pages	AR Number
2021-06-30	Correspondence from ENGEO to Noah Rosen regarding Howard Terminal Redevelopment, Oakland California, Dewatering Plan Requirements	New information re dewatering plans.	2	<u>0087128 - 0087129</u>
	Memorandum from Darcie Chinnins HLB to Noah Rosen Oakland Athletics regarding Additional Glare Studies in Turning Basin	New information re lighting analysis/glare.	4	<u>0087290 - 0087293</u>
	Correspondence from ENGEO to Noah Rosen, Oakland Athletics regarding Howard Terminal Redevelopment, Oakland California – Liquefaction Information	New information re liquefaction risks.	3	<u>0087294 – 0087296</u>
	BFK – Civil Narrative – CEQA Support – Oakland Athletics Proposed Development	New information re infrastructure required for the project.	51	<u>0087431 - 0087481</u>
	BFK Technical Memorandum from Simon North, Ashley Stanley, Patrick Connors and Jono Disenhof to Noah Rosen regarding Howard Terminal – Preliminary Storm Drainage Study	New information re storm drainage.	16	<u>0087482 - 0087497</u>
	Technical Memorandum from Jaggi Bhandal and Simon North, BKF to Sam Worden and Noah Rose, Oakland Athletics regarding	New information re grade separation options and feasibility.	85	<u>0087302 – 0087386</u>

	Howard Terminal Grade Separation Alternatives Feasibility Study			
	ENGEO Memorandum to Noah Rosen, Oakland Athletics regarding Howard Terminal Redevelopment – Dust Control Plan – Community Air Monitoring Plan	New information re Dust Control Plan and Community Air Monitoring Plan.	11	0087420 – 0087430
	ENGEO Memorandum to Noah Rosen, Oakland Athletics regarding Athletics Ballpark Development – Howard Terminal Site Oakland, California – Human Health and Ecological Risk Assessment Information	New information re Human Health and Ecological Risk Assessment.	4	0087387 – 0087390
	Memorandum for Moffat and Nichol to Noah Rosen regarding Coastal Flooding, Proposed Grading Strategy, Sea Level Rise Adaptation, and Public Access on Wharf - Oakland Athletics Howard Terminal Project	New information re flooding, groundwater intrusion and sea level rise.	24	0087396 – 0087419
	ENGEO Memorandum to Noah Rosen, Oakland Athletics regarding Athletics Ballpark Development – Howard Terminal Site Oakland, California – Key Elements of Anticipated Remediation Plan Approach	New information re site remediation process.	5	0087391 – 0087395
	Oakland Athletics Ballpark Design Guidelines	Project Design Guidelines.	59	0087561 – 0087619
	Correspondence from Oakland Athletics to Peterson Vollmann, City of	New information regarding Tier IV construction equipment.	1	0087756

	Oakland regarding Tier IV Construction Equipment summarizing the availability of specialty Tier IV compliant construction equipment in the Bay Area. (DeSilva Gates Construction, Devcon Construction, Bigge Crane and Rigging Company)			
	Technical Memorandum from Simon North, Ashley Stanley, Patrick Connors and Jono Disenhof, BKF regarding Howard Terminal – Preliminary Storm Drainage Study	New information regarding stormwater flow.	17	0087770 - 0087786
	Memorandum from Dilip Trivedi Moffatt & Nicol to Noah Rosen regarding Potential Extents of Inundation, Oakland Athletics Howard Terminal Project (HT Inundations Maps) with attached Exhibits	New information re sea level rise.	9	0087966 - 0087974
	Sea Level Rise Inundation Exhibits	New information/exhibits re sea level rise.	6	0087968 - 0087974
	Correspondence from Noah Rosen, Oakland Athletics to Molly Maybrun, City of Oakland regarding Howard Terminal Ballpark District Air Quality Mitigation Measures	New information re air quality mitigation measures.	6	0087977 – 0087982
	CEQA Air Quality Technical Addendum prepared by Ramboll for Oakland Athletics	New information re air quality.	170	0088191 – 0088360

2021-11-03	Memorandum from Ramboll to Brian Schuster and Hillary Gitelman, ESA regarding Electric Vehicle Assumptions for the Oakland Waterfront Ballpark District Project	New information re electric vehicles.	39	0088403 – 0088441
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2. Documents Released in December 2021 with FEIR

		FEIR Appx. 4, BIO	29	0015021 - 0015049
		FEIR Appx. 5, Cultural information	83	0015050 - 0015132
		FEIR Appx.6, Sea Level Rise information.	46	0015133 - 0015178
	Correspondence from Danny Wan, Executive Director, Port of Oakland to City of Oakland, City Council regarding City Council Consideration of Seaport Compatibility Measures	New information re seaport compatibility measures.	5	0088476 – 0088480
	Correspondence from Danny Wan, Executive Director, Port of Oakland to City of Oakland, City Council regarding Ongoing Coordination and Collaboration on Planning with City of Oakland	New information re seaport compatibility measures.	2	0088481 – 0088482
	Oakland Waterfront Ballpark District Howard Terminal Design Guidelines	Revised Design Guidelines submittal.	109	0088603 - 0088711
		Revised Master Plan Framework submittal.	40	0089350 - 0089389

2021-12-17	Correspondence from Brian Gagnon, The Fire Consultant, to Fire Marshall Ariola, Oakland Fire Department and Pete Vollmann, City of Oakland regarding Oakland Athletics –Howard Terminal Development Fire Department Access Approach	New information re access to project site.	10	0088752 – 0088761
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3. Documents Released in January – February 2022

	Correspondence from Dave Kaval, Oakland Athletics to Betsy Lake, City of Oakland regarding Oakland Waterfront Ballpark District FEIR Comment – Grade Separation	New information re grade separation.	3	0088868 - 0088870
	Correspondence from Dave Kaval, Oakland Athletics to Betsy Lake, City of Oakland regarding Oakland Waterfront Ballpark District FEIR Comment – Overlapping Construction Projects	New information re air quality impacts from construction.	2	0088871 - 0088872
	Memorandum from Fehr & Peers to Noah Rosen regarding Benefits of Development Density	New information re development intensity.	49	0088876 - 0088924
	Memorandum from Fehr & Peers to Noah Rosen regarding At Grade Railroad Crossing Closures to Motor Vehicles	New information re at-grade railroad crossing.	3	0088925 - 0088927
		New information re funding for expanded transit service.	11	0088928 - 0088938
	Memorandum from Dilip Trivedi, Moffatt & Nichol to Noah	New information re project's effect on floodplain.	2	0088940 – 0088941

Date				
	Rosen regarding Effects on Floodplains Oakland Athletic Howard Terminal Project			
		New information re feasibility of alternatives.	2	0088948 - 0088949
	Correspondence from Dave Kaval, Oakland Athletics to Betsy Lake, City of Oakland regarding Oakland Waterfront Ballpark District – Alternatives and Objectives	New information re project alternatives.	9	0088950 - 0088958
	Memorandum from Erin Talkington and Jordan LaMarche RCLCO to Anye Spivey, Oakland A's regarding Opinion letter on the Viability of the Howard Terminal Site for the Oakland Athletics New Ballpark	New information re viability of HT site for ballpark project.	5	0088959 - 0088963
	Correspondence from R. Chris Lightburne DPGF to the City of Oakland regarding Feasibility of Alternative 4: the Reduced Project Alternative	New information re project alternative 4, Reduced Project Alternative.	9	0089029 - 0089037
	Correspondence from Dave Kaval, Oakland Athletics to Betsy Lake regarding Oakland Waterfront Ballpark District – Grade Separation	New information re grade separation/railroad safety measures.	2	0089049 - 0089050
	Correspondence from Whitman Manley, Remy Moose Manley to Betsy Lakes, City of Oakland regarding Oakland Waterfront Ballpark District – Hazardous Materials	New information re hazardous materials.	6	0089081 - 0089086

From: Anne Christie
Sent: Wednesday, June 29, 2022 3:41 PM
To: BCDC PublicComment
Cc: Sarah Karlinsky skarlinsky@spur.org
Subject: SPUR Letter on BCDC Howard Terminal Vote

Dear Commissioners,

Please find attached SPUR's written comments on tomorrow's SF Bay Conservation and Development Commission agenda item regarding the application to remove the Port Priority Use Area designation at Howard Terminal.

Thank you for the opportunity to provide a comment.

Best regards,

Anne Christie (she/her)
Executive Operations Associate | [SPUR](#)

June 29th, 2022

Bay Conservation and Development Commission
375 Beale Street, Suite 501
San Francisco, CA
94105

Dear Commissioners,

SPUR supports the amendment of the San Francisco Bay Plan and Seaport Plan to remove the Port Priority Use Area (PUA) designation at Howard Terminal. We agree with BCDC and Port staff assessment that removing Howard Terminal from PUA would not detract from the region's capability to meet future projected growth in cargo.

We also understand that the removal of this designation is essential for the proposed Oakland Waterfront Ballpark project at Howard Terminal to move forward. However, SPUR believes that in order for the Oakland Waterfront Ballpark project to be successful, it needs to address uncertainties related to project financing, transportation infrastructure, and housing affordability options. SPUR previously voiced these concerns in both our comments on the [Draft EIR](#) and [Development Term Sheet](#). To our knowledge, these concerns have not yet been resolved.

We believe that the removal of Howard Terminal from the Port Priority Use Area designation is appropriate.

We appreciate BCDC and Port staff's analysis that Howard Terminal is not essential to meet the region's projected growth in cargo.¹ While we agree with staff's assessment, SPUR recognizes that containerized traffic into and out of the Port of Oakland is a major contributor to the job market and economy of California, and that this traffic has grown since the 2008 global financial crisis. We also note that some privately owned parking lots near the West Oakland Bart Station formerly in use as commuter parking lots are now occupied for container and trailer storage (and repairs in some cases) to cater to this growth, as is Howard Terminal. However, Howard Terminal represents only 6.18% of the Port of Oakland's total 809-acre total available land and current operations are not the best use of this site given its encumbrances.

¹ BCDC, *Staff Final Recommendation for Bay Plan Amendment 2-19 Concerning Removing Howard Terminal from Port Priority Use Designation*, Dated June 17th 2022.

We would also like to note that approximately 80% of the Port of Oakland's throughput travels by the Bay Area's Interstate network.² This contributes to high particulate pollution and community health issues in neighborhoods in close proximity to these necessary truck haulage routes. Increasing freight efficiency and cleanliness should assist Oakland and other East Bay cities alleviate the issues of pollution they are grappling with.

We understand that removal from port designation is only one step in the lengthy process of approving and completing the proposal for a new waterfront ballpark and associated development. **We continue to believe that the new waterfront ballpark must address the following unresolved issues in order to be successful:**

Plans for financing the project must be clarified.

If built, the project will require significant offsite infrastructure improvements, particularly transportation improvements, in order to accommodate the heightened amount of activity around the new ballpark and its surrounding facilities. However, it is still unclear how these off-site improvements will be financed, as the proposed EIFD would only cover the Howard Terminal site. Community benefits face similar uncertainties and continue to be argued over by the A's and the City of Oakland. A transparent and implementable plan for financing off-site infrastructure and community benefits must be finalized before the project can move forward.

Public transit improvements and safety must be prioritized.

The Howard Terminal site currently lacks access to public transit capable of transporting ballpark sized crowds and also poses freight safety risks. In order for the project to be successful, a complete transportation plan must be financed and carried out to ensure the safety of pedestrians. This plan must also ensure that pedestrian traffic from ballpark activity does not negatively impact port operations. Lastly, this project is an opportunity to better connect to the transportation improvements envisioned in Link 21. Specific recommendations for transportation options and ensuring rail safety can be found in SPUR's earlier [Draft EIR response](#).

The project must develop housing at a range of affordability.

SPUR supports the project's plan to build a large amount of housing units adjacent to the ballpark. However, it is unclear how many of these units will be considered affordable. Many new jobs generated by the project will be low income positions and it is important that the project provide housing opportunities for these employees. SPUR encourages the City of Oakland and the Oakland A's to reach an agreement to finance and build the maximum number of feasible affordable units, in addition to a multitude of units at higher ranges of affordability.

² <https://www.freightwaves.com/news/freightwaves-flashback-oakland-targets-intermodal>

The process to develop the proposal needs to be more inclusive and better address the concerns of the broader community.

Redevelopment proposals like the proposed Oakland Waterfront Ballpark project present an opportunity to positively impact Oakland and the region. At the same time, the Port of Oakland remains a critical use that needs to be protected and strengthened to meet economic, social and environmental outcomes. Both goals are possible, but will require a stronger commitment from the A's to work proactively with community groups, impacted businesses, the Port, the City, and others to ensure the project delivers on its promise.

SPUR appreciates BCDC's staff and commissioners for their attention towards this issue and commitment to the economic vitality of Oakland. We are invested in ensuring that the proposed Oakland Waterfront Ballpark project is successful and hope our comments shed light on future improvements that must be addressed.

Sincerely,

A handwritten signature in black ink, appearing to be 'SK' or 'Sarah Karlinsky'.

Sarah Karlinsky
Senior Advisor

From: Anthony Perez

Sent: Wednesday, June 29, 2022 3:50 PM

To: BCDC PublicComment

Subject: Howard Terminal vote to end the Port of Oakland's property use

Dear BCDC Commission,

I am in favor of relinquishing the Howard Terminal properties as development of the proposed Ballpark and development of this area for public use.

I hope that we can move forward with this project and create a future that reflects our best effort in creating something that we can all enjoy!

Sincerely

Anthony And Mary Perez

From: sean kenney

Sent: Wednesday, June 29, 2022 12:34 AM

To: BCDC PublicComment

Subject: June 30th Keeping the A's in oakland

To whom it may concern,

I have been a fan of the Oakland Athletics for over 20 years. I have attended 300 plus games as well as worked at the stadium for over a year now. If the Athletics baseball team were to leave Oakland, it would leave a void in my finances as well as my heart.

I strongly desire for everything possible thing to be done that can be done to keep the Athletics in Oakland. I believe the best way for this to happen is by finding mutual ground and approving the Howard terminal site to be used for the construction of a new baseball stadium for the Athletics in Oakland.

There are many loyal fans including myself that would support the team If they stay in Oakland. I believe a major part of attendance and other issues the team has endured recently falls on ownerships doorstep, as John Fisher has made decisions based solely on his own interests and not those of the team or its fans.

Now is an important time in the Athletics fate as Major League Baseball is trying everything it can to influence the Athletics to move, including waiving a relocation fee if the Athletics were to move to Las Vegas.

Please help to keep the Athletics in Oakland and renovate and improve the Howard Terminal area through a new baseball park for the Athletics.

True Athletics fans and people in the area are depending on you to help save our team and improve the area by taking the necessary steps and voting in favor to help the Athletics stay in Oakland through construction at the Howard Terminal site.

Thank you,
Sean Kenney

From: Ezra Schnick
Sent: Wednesday, June 29, 2022 4:16 PM
To: BCDC PublicComment
Subject: I support the A's stadium at Howard Terminal

Hello!

I wish to register my support of the A's stadium at Howard Terminal. Let's get it done! Go OAKLAND A's!

Regards,

Ezra

From: Joshua Dutiel

Sent: Wednesday, June 29, 2022 4:20 PM

To: BCDC PublicComment

Subject: I support the A's at Howard Terminal

Hello,

I live in Oakland and I would like to register my support for the Oakland A's project at Howard Terminal.

Take care,

-Joshua Dutiel

From: Alister Ashtyya

Sent: Wednesday, June 29, 2022 4:24 PM

To: BCDC PublicComment

Subject: Support the A's at Howard Terminal

I am an Oakland resident and I support the Oakland A's stadium at Howard Terminal.

sincerely

-Alister Ashtyya

From: anonimo anonimo

Sent: Wednesday, June 29, 2022 4:28 PM

To: BCDC PublicComment

Subject: Support the Oakland A's at Howard Terminal

Hello,

I am a long-time Oakland and I wholeheartly support the Oakland A's at Howard Terminal. The benefits to our community are immeasurable.

Anonimo Dominga

From: banoo hibee

Sent: Wednesday, June 29, 2022 4:33 PM

To: BCDC PublicComment

Subject: My support the A's at Howard Terminal

HI,

As a native Oaklander, the A's proposed project at Howard Terminal is a once-in-a-lifetime opportunity for the community. I entirely support the project.

All the best...

-Mike Hibee

From: Roure,
Sent: Wednesday, June 29, 2022 4:39 PM
To: BCDC PublicComment
Subject: Howard Terminal

Cities that do not change die rather than grow. It is essential that Alameda County, Oakland and the Port continue to develop and improve their facilities and adapt to the changing needs. A new stadium and housing would spark the area and on an equitable basis improve the lives of people around them. That especially includes the environmental commitments that are required for the project to take place. While I am a baseball fan, I see this project as something more than that. Post-covid the city needs something that will draw people into that area. As an Alameda county voter, I truly see the importance of this project.

Bill Roure

From: Aaron Burch

Sent: Wednesday, June 29, 2022 4:44 PM

To: BCDC PublicComment

Subject: BCDC Vote on Howard Terminal

Dear BCDC,

I'm writing to show my support of the Oakland A's application to amend the San Francisco Bay Plan and Seaport Plan to remove the Port Priority Use Area designation at Howard Terminal.

As residents of Oakland and A's fans, we believe the A's are an important part of the community and the new ballpark development at Howard Terminal will be great for the City of Oakland and the greater East Bay community.

Thank you!

Aaron Burch
Oakland, CA 94619



Dear BCDC Commissioners:

Environmental, economic, and social justice for the West Oakland community must be a driving principle of the A's Ballpark and the development of the Howard Terminal property.

Like tens of thousands of other Southern Black rural migrants, my grandfather and other family members came to West Oakland in the 1940s to work in the shipyards. My family has lived and worked in this community for generations, and while we have heard much about shipping and trucking companies' opposition to the A's stadium, we've felt the negative impacts of these companies' operations for decades in terms of traffic, groundwater contamination, and air pollution, but little of the positive benefits have trickled down to the community outside of the seaport.

The A's Ballpark Village project is an opportunity to see meaningful cultural, environmental, economic, recreational, and social benefits for our community to begin to redress the racial inequity metrics documented in Oakland's Baseline Racial Equity Indicators Report.

I was a Co-Chair of the Howard Terminal Community Benefits Agreement (CBA) Steering Committee's Culture and History Topic Cohort and our organization is also a participant in the West Oakland Benefits for Equity (WOBE) collaborative. WOBE, along with other community stakeholders, are currently negotiating community benefits terms with both the Port and City that would provide targeted local hiring of jobs that will prioritize employing East and West Oakland residents and disadvantaged workers with barriers to employment. It will deliver contracting opportunities for local, small, and minority-owned businesses. The draft term sheet resolution approved by Oakland's City Council includes funding for hundreds of units of affordable housing, including \$50MM for creating and maintaining ownership for long-time and displaced Black West Oaklanders. The community-governed Community Fund will allocate hundreds of millions of dollars from a special condo transfer fee to support the recommendations developed by the CBA Steering Committee. The community benefits funding is hundreds of times larger than any previous community benefits package in Oakland and is a step in repairing damage to the impacted communities.

As part of this project, the Port will also be able to fund transportation infrastructure improvements that will reduce the traffic pressure in our community and improve its operational effectiveness and safety. It will give us access to that waterfront area and build new public parks for our families.

The project will create significant economic opportunities for our community that was redlined for decades and demolished by urban renewal as documented in Oakland's Report on Redlined Neighborhoods in District Three. Tens of thousands of new stadium visitors, residents, and office workers will create demand for our existing local small businesses and create opportunities for new ones. However, we first need to counter the local disinvestment practices of the past and allow this development to continue to see these potential benefits.

A project that creates opportunities like this only comes along once in a generation. The bill for generations of redlining, disinvestment, "urban renewal", and environmental racism by our local governments is long overdue. I urge the Bay Conservation and Development Commission to allow this development to continue in the name of economic, environmental, and social justice for West Oakland.

David Peters
West Oakland Cultural Action Network

From: Chris Cordani
Sent: Wednesday, June 29, 2022 4:53 PM
To: BCDC PublicComment
Subject: Support for Howard Terminal

Hi - My name is Chris Cordani - I've called the SF Bay Area my home since 1994 and lived in the Oakland area since 2008.

My wife, two young sons and I are Oakland A's fans - but as importantly are invested & devoted citizens.

My family and I could not be more supportive of the Howard Terminal stadium project and all that it would mean for the region - from brand-new revenue to bringing beautiful new buildings and facilities and importantly - a world-class Stadium that befits our amazing city. I personally watched PacBell's construction in SF decades ago - and the rest is history. I am convinced this project will do even more for Oakland.

Yes, this storied franchise deserves a ballpark of this nature but the entire city, baseball fan or not, deserves this development and the long list of benefits that it would bring to the city and broader region for decades to come.

This is a rare opportunity and our time is now - let's make it happen! Please approve this project!

All the best,
Chris

From: tita bladen

Sent: Wednesday, June 29, 2022 4:55 PM

To: BCDC PublicComment

Cc: Keith Bladen keithbladen@gmail.com

Subject: June 30th Oakland As Application to Amend SF Bay Plan

To BCDC Commissioners:

I support the Oakland Athletics Application to Amend the SF Plan & Seaport Plan to remove the Port Priority; Use Area designation at Howard Terminal. As a homeowner in Jack London Square, I know this will be of great benefit to the immediate community and the City of Oakland.

Regards,

Dorotea and William Bladen

From: East Oakland Stadium Alliance
Sent: Wednesday, June 29, 2022 5:01 PM
To: BCDC PublicComment
Subject: Howard Terminal Briefing

Keep the Waterfront for Waterfront Use

On Thursday, the BCDC will consider whether to end Howard Terminal's use as a functioning Port facility. The question before the BCDC centers on how important it considers Howard Terminal to be for port operations over the next 30 years.

Multinational shipping companies, the International Longshore and Warehouse Union, and Central Valley farmers who rely on the port to export fruit and vegetables know the site is essential to the nation's 10th-largest port, "upland" shipping interests beyond the dock, and high-paying union jobs.

The seaport community strongly disagrees with the staff recommendation to remove Howard Terminal from Port Priority Use. The reality on the ground is that Howard Terminal is as busy and as critical as ever. Congestion remains at an all-time high in the Port of Oakland and removing Howard Terminal from Port Priority Use could inhibit current and future growth at the Port of Oakland and throughout the Bay region for decades to come. Even the Port's budget, released on June 23, 2022, clearly shows that the Port's 1% growth narrative is a sham and the BCDC should be considering the impact of removing Howard Terminal under the strong growth scenario, which would clearly preclude the removal of any Port Priority Use Property – failure to protect this important piece of maritime land will result in the region being unable to meet its capacity constraints well before 2050. On behalf of the seaport community and our many community allies, we strongly urge a "no" vote on June 30th.

Community Voices

[Ag Organizations and Rural Mayors Oppose the Howard Terminal Project](#)

California agriculture needs the Port of Oakland. For decades, the Port has been the primary gateway for California agricultural exports. Whether it is wine from the North Bay, lettuce from the Salinas Valley, almonds from the Central Valley or rice from the northern reaches of the State, our relationship with the Port has been essential and successful and helped create jobs throughout California. (Access link for detailed list of agricultural commodities: www.ams.usda.gov/sites/default/files/OaklandPort.pdf.)

According to the US Census Bureau, in 2021 72.8% of all of Oakland's containerized exports by value and 55.0% by weight are agricultural products. But all of that is threatened with a proposed office complex, luxury hotel, condominium, concert facility

and ballpark on Port property. A project that does nothing to enhance the capability of the Port but does threaten its existence which in turn threatens much of California agriculture.

Farmers know all too well what happens when development crowds out productive land and essential services like those provided by the Port. Restrictions, lawsuits, complaints occur as new residents and their expectations conflict with the workings of agriculture and related businesses like the Port where a development project will be built right up against the fence line of maritime operations.

We know from experience that promises by developers and public officials to protect the continued economic existence of neighboring facilities are often hollow at best.

More specifically, it's a fantasy to think that bringing three million people to the waterfront, as declared by the Howard Terminal proponents, will not negatively impact the Port. After having paid millions of dollars for condominiums, how many people will tolerate looking out over a container terminal with lights on all night, or will enjoy the intersection of sounds of ships, trucks, trains and containers banging all day and all night.

While some falsely claim that the Howard Terminal is an empty parking lot and therefore expendable, as major users of the Port, we know the opposite to be true. We see an essential terminal bulging at the seams which needs to expand, not downsize, in order to facilitate the movement of California agricultural products worldwide.

What is certain, is that California agriculture will continue to expand its overseas markets, creating jobs throughout California's supply chain, and making the Port as we know it even more vital to the collective future of California.

Nisei Farmers League
African American Farmers of California
California Farm Bureau Federation
Mayor Alvaro Preciado, City of Avenal
Mayor Brady Jenkins, City of Firebaugh
Mayor Pro tem Mark Rodriguez, City of Fowler
Mayor Rolando Castro, City of Mendota
Mayor Alma Beltran, City of Parlier
Mayor Eli Ontiveros, City of Sanger
Mayor Rudy Mendoza, City of Woodlake
Agricultural Council of California
American Pistachio Growers
California Apple Commission
California Blueberry Association
California Blueberry Commission
California Cotton Ginners & Growers Association

California Fresh Fruit Association
Central Valley Latino Mayors & Elected Officials Coalition
Far West Equipment Dealers Association
Milk Producers Council
Olive Growers Council of California
Western Agricultural Processors Association
Western Growers Association

The list of agricultural organizations and rural Mayors was Submitted by: Manuel Cunha, Jr., President, Nisei Farmers League and Will Scott, Jr., President, African American Farmers of California
1775 N. Fine Avenue, Fresno, CA 93727 559-251-8468
clehn@niseifarmersleague.com

You can read the full letter [here](#).

Media Spotlight

[Fate of A's in Oakland may rest in Thursday's meeting of obscure state commission](#)

The final out in the back-and-forth game to find a home for the Oakland Athletics may rest this week with a little-known state commission.

If the San Francisco Bay Conservation and Development Commission board votes Thursday not to convert 55-acre Howard Terminal's designation from a "port priority," the A's \$6 billion plans for a privately financed 35,000-seat ballpark plus housing, offices and retail at the site are outta here.

But even if BCDC clears the way for the A's, the project still could lose if the city and the baseball franchise can't come to an agreement on affordable housing and other community benefits as well as a structure for divvying up the costs of infrastructure and other improvements.

City Council members, meanwhile, are threatening to place a question on the November ballot that would likely turn complex development questions into a referendum on the A's billionaire owner John Fisher. What's more, the Union Pacific Railroad, Capitol Corridor Joint Powers Authority and a coalition of East Oakland neighbors to the Coliseum and shippers have sued to challenge the city's environmental impact certification of the project.

All of this comes against the backdrop of Oakland losing football's Raiders and basketball's Golden State Warriors over the past three years, and the A's lease at the 55-year-old RingCentral Coliseum expires in 2024.

"We really are running out of time in Oakland," said A's President Dave Kaval, adding that the franchise is doing design and feasibility work on a "handful" of sites in Las Vegas, where Major League Baseball has said it will not require a relocation fee.

The Port of Oakland and its tenants are key to the project going forward or not. The question Thursday before the BCDC centers on how important they consider Howard Terminal to be for port operations over the next 30 years.

Multinational shipping companies, the International Longshore and Warehouse Union, Central Valley farmers who rely on the port to export fruit and vegetables and multibillion-dollar, Portland-based scrap metal recycling company Schnitzer Steel Industries Inc. (NASDAQ: SCHN), which occupies a sliver of land between Howard Terminal and the rest of the port, believe the site is essential to the nation's 10th-largest port, "upland" shipping interests beyond the dock and high-paying union jobs.

"If you're just focused on the marine terminal itself, you've missed the big picture of how all of this is supposed to be integrated," said Mike Jacob, vice president and general counsel of the 65-member Pacific Merchant Shipping Association, which represents ocean carriers, marine terminal operators and other maritime interests.

Proponents of the A's project, including trades unions, say Howard Terminal is little more than a staging area for containers on valuable waterfront property that could be redeveloped as an Oakland jewel while bringing in millions of dollars in tax revenue.

The BCDC vote Thursday could put an end to the A's ballpark dreams altogether. If two-thirds of the 27-member commission — 18 votes — don't favor removing the "port priority" designation for the site, the A's would not have the time to tweak their proposal and come back to BCDC within the timeline the team has set for starting play in a new stadium in 2025.

BCDC is believed to have the 18 votes to approve the change in the "port priority" designation — a rare move for the commission that was set up 56 years ago for responsible development of the bayfront. There could be as many as 22 votes in favor of the change, said one source.

The commission is made up of members appointed by Gov. Gavin Newsom, former Gov. Jerry Brown, Assembly Speaker Anthony Rendon, the Association of Bay Area Governments, the U.S. Army Corps of Engineers, state and federal agencies, and local governments.

An advisory committee to the BCDC in a split vote in May recommended that Howard Terminal not be turned over for the ballpark, 3,000 market-rate and affordable housing units, 1.5 million square feet of office space, 270,000 square feet of retail, 400 hotel

rooms, a 3,500-seat performance center and 18.3 acres of new parks and open space.

"In many ways, this is a complex situation," said BCDC chair Zack Wasserman, an attorney at Oakland law firm Wendel Rosen Black & Dean LLP, now known as Fennemore Wendel. "BCDC staff and the commissioners are taking a serious, hard look at it."

To Manuel Cunha Jr., president of the Nisei Farmers League, a Fresno-based organization of growers, the choice between good food and good baseball is a simple one.

"What's more important to society in Oakland, San Francisco or anywhere? It's not baseball — that's great — but it's the food chain," said Cunha, who represents growers of 300 commodities, including wine grapes, raisins, almonds and vegetables. "Without food, no one lives."

Howard Terminal, which doesn't load or empty ships, is used as a staging area for goods awaiting export or those that have been taken off container ships, but Cunha said moving that use further away from the port raises security and logistics issues for farmers, some of whom need to keep their goods refrigerated until loading onto ships.

Hundreds of acres of staging yards could be set up hundreds of miles away, like ports in Southern California and the Seattle area have sponsored, but shippers say that would increase costs for growers who are subsidized to cover some of the costs of trucking product to ports.

"If we lose the Port of Oakland, we've lost one of the most important parts of our society's protection, because that's how we move product in and out," Cunha said.

Already shippers are using off-site pop-up yards in Oakland to store containers, said the Pacific Merchant Shipping Association's Jacob. Just-in-time shipping requirements make it difficult to store agricultural goods especially farther from the port.

"We're moving more cargo. That means we need more space," Jacob said. "We're basically taking whatever acreage we can get."

Howard Terminal makes up less than 5% of the 1,300-acre Port of Oakland, and ballpark proponents have noted that container storage and truck parking at the waterfront isn't the best use of the site.

Port and A's officials already have set aside 10 acres of Howard Terminal to expand the turning basin of the channel between the port and Alameda to accommodate larger ships.

The A's Kaval said there is a "clear rationale" for removing Howard Terminal's priority designation. "It's mostly just been a parking lot," he said.

The A's say the development, which would cost about \$6 billion to fully build out and be valued at \$12 billion, could be a generational project that connects the Jack London Square district of bars and shops.

At the same time, Kaval with the backing of Major League Baseball has aggressively promoted the A's efforts in Las Vegas.

In Oakland, the organization is looking at a model of partnering Howard Terminal development over a number of years.

"We think Oakland can have a thriving commercial waterfront with a ballpark, housing and entertainment," Kaval said. "I'm there three times a week at my offices and there are not enough people living and working there right now."

Meanwhile, the A's, sitting in last place in their division, have been criticized for raising some ticket prices while trading potentially high-priced stars. Fans still pay \$30 to park at the Coliseum for games that draw an average of less than 10,000 people to a stadium with a full baseball capacity of more than 46,000.

The A's have asked the joint powers authority board at the Coliseum, which was developed by the city and Alameda County, about extending the team's lease beyond 2024, Kaval said, but that has not been taken up. Meanwhile, he said, the Coliseum faces deferred maintenance issues, including seats becoming disconnected from concrete.

But, Kaval said, the decision rests with Oakland officials.

"It's like an octopus with eight legs — it might be doable, but I worry 16 legs might pop up," he said. "We're working toward a definitive or binding answer. We really need it."

You can read the full article [here](#).

From: Stephen Lowe

Sent: Wednesday, June 29, 2022 5:03 PM

To: BCDC PublicComment

Subject: Highest and Best Development of Our Seaport Includes Baseball?

Hi BCDC Commissioners and Staff!

While many believe that baseball and/or retail uses near the Port of Oakland benefit special interests only, those of us who support the Oakland A's proposal do so because, *like no other project yet presented*, our waterfront can, at long last, be transformed into the *necessary environmental paradigm* that its surrounding community has long sought!

Folks from other parts of the Bay may dislike various aspects of this development, but they most likely don't have to experience – every day! – the corrosive effects of this obviously ill-used, neglected and *disadvantageously underdeveloped* superregional hub.

In order to guarantee that ballpark (and village!) access will significantly improve both commerce and liveability throughout Oakland's strategically situated waterfront, the Enhanced Infrastructure Financing District (EIFD), through which a substantial bulk of essential cargo must also flow – *the beating heart of Bay Area commerce!* – *cannot but* be built out as the most efficient transportation hub in Northern California, providing simultaneously a fix for any of this nation's *regional supply chain deficiencies* and also a *major contribution to the Bay Area's increasingly imperiled environment!*

We have a chance to strengthen our regional *economy* by reinforcing the *efficiency* of Oakland's waterfront and at the same time, intensifying the Bay's holistic approach to remediating its *ecology*.

Cordially,

- *Steve Lowe*

Transportation CoChair, HT-CBA Steering Committee

VP, West Oakland Commerce Association

VP, Jack London District Association

Boardmember, Old Oakland Neighbors

Co-Founder (1973), Old Oakland Project

Coordinator, *WOJLOO!*

From: Jake Cline

Sent: Wednesday, June 29, 2022 5:14 PM

To: BCDC PublicComment

Subject: June 30th BCDC Vote on Howard Terminal Port Priority Use Designation Removal

Hello Commission,

I am a small business/law office owner in Oakland, CA. It is a family run office that has been in Oakland since the 1970's.

It is critical that Howard Terminal is built for the following reasons:

- 1) Provide access to our waterfront.
- 2) Provide sustainable development.
- 3) Alleviate gentrification in East Oakland.
- 4) Right social wrongs/injustices to Oakland done over many decades.
- 5) The current Oakland Coliseum is below sea level. This property is above sea level.
- 6) Provide much needed economic relief to DT Oakland.
- 7) Losing the last professional sports team in Oakland is unfathomable.

Please remove the Port Priority Use Designation at tomorrow's meeting. Thank you.

Jake

--

Jake Cline, Esq.
Cline Law Group

From: Salvatore Ferraro

Sent: Wednesday, June 29, 2022 5:19 PM

To: BCDC PublicComment

Subject: Please remove Port Priority Use Area designation from Howard Terminal

Dear BCDC Commissioners,

I am a San Francisco resident who frequently is in the city of Oakland and surrounding East Bay towns multiple times per month. I urge you to remove the Port Priority Use Area (PUA) designation from Howard Terminal. Your staff has already recommended this action and I can not urge you enough that this is the correct vote. This project brings important environmental justice to the area, while protecting against future sea level rise. It gives the community vital access to the waterfront in the Bay. We can take an under utilized parking lot and instead transform it into something for generations to come. Additionally, it would be one of the largest development projects in our State's history, and it includes so many benefits to Californians without jeopardizing the City or County's general fund. This is a once in a lifetime opportunity to bring affordable housing, hotels, an entertainment venue, shops and a privately financed ballpark to a neighborhood in dire need of revitalization.

Please vote to remove Port Priority Use Area designation from Howard Terminal so that the Oakland A's can move forward this this project for Oakland and all Bay Area residents.

Thank you for your time and consideration,

Salvatore Ferraro

From: Carl Bellone

Sent: Wednesday, June 29, 2022 5:27 PM

To: BCDC PublicComment

Subject: Howard Terminal

Dear BCDC:

I agree with the staff report.

I don't see how a parking lot on a toxic site is better than a cleaned up site with a baseball park, housing, and other development that will be good for the economy of Oakland.

Sincerely,
Carl Bellone

From: Cliff Marquez

Sent: Wednesday, June 29, 2022 5:52 PM

To: BCDC PublicComment

Subject: Howard Terminal Ballpark District

Hello,

I'm an avid baseball fan and have followed Oakland sports all my life. I'm also pro Oakland for business and community and I feel this project is well worth it for our East Bay. Please vote to remove port priority use on the Howard Terminal land. I would greatly appreciate the use of that land for baseball, parks and just all around waterfront access that we currently do not get. The site's use is better used for the fans, Oakland, A's and community as opposed to cargo storage, idling trucks and vacancy. Please look at the benefits and ROI that I'm sure your staff and any other advisors have done on this potential site. Please do not let us down! It's an economic developmental project that I've been waiting for all my life! Thank you for taking the time in reading my thoughts and request.

Best Regards,
Cliff Marquez

From: Sean Cameron

Sent: Wednesday, June 29, 2022 6:53 PM

To: BCDC PublicComment

Subject: Support for development of Howard Terminal

In response to tomorrow's vote on the Oakland Athletics' Application to Remove the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County, Bay Plan Amendment No. 2-19:

I support the removal of Howard Terminal's port distinction clearly the way for new ball park and associated development. This decision will help to finally transform Jack London into what has been envisioned for decades.

Thank you,
Sean Cameron

From: Tony Swei

Sent: Wednesday, June 29, 2022 6:59 PM

To: BCDC PublicComment

Subject: Howard Terminal Stadium YES!!!!

Hi - My name is Anthony Swei. I've called the SF Bay Area my home since 1989 and have lived in the Oakland area since 2003.

My wife, two kids and I are Oakland A's fans - but as importantly are invested & devoted citizens.

My family and I could not be more supportive of the Howard Terminal stadium project and all that it would mean for the region - from brand-new revenue to bringing beautiful new buildings and facilities and importantly - a world-class Stadium that befits our amazing city. I personally watched PacBell's construction in SF decades ago - and the rest is history. I am convinced this project will do even more for Oakland.

Yes, this storied franchise deserves a ballpark of this nature but the entire city, baseball fan or not, deserves this development and the long list of benefits that it would bring to the city and broader region for decades to come.

This is a rare opportunity and our time is now - let's make it happen! Please approve this project!

Best,

Anthony Swei

From: Marcia Yusavage
Sent: Wednesday, June 29, 2022 7:45 PM
To: BCDC PublicComment
Subject: Howard terminal ballpark support

I'm a 20+ year Oakland resident and fully support the A's ballpark plan for Howard Terminal. It will be a huge benefit for the city and the region.

Best regards,
Marcia Yusavage

From: Dan Mackowski
Sent: Wednesday, June 29, 2022 7:53 PM
To: BCDC PublicComment
Subject: BPA 2-19 Support

Hello,

I am writing to record my support of the amendment to the San Francisco Bay Plan and Seaport Plan to remove the Port Priority Use Area designation at Howard Terminal at the Port of Oakland.

Thank you,
Daniel Mackowski
San Francisco resident

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0015
(916) 319-2015
FAX (916) 319-2115
E-MAIL
Assemblymember.Wicks@assembly.ca.gov



DISTRICT OFFICE
1515 CLAY STREET, SUITE 2201
OAKLAND, CA 94612
(510) 286-1400
FAX (510) 286-1406

Dear Chair Wasserman,

I am writing to urge you to vote to allow the proposed Howard Terminal project to move forward, by following the Bay Conservation and Development Commission's (BCDC) staff recommendation and approving the removal of the Port Priority Use (PPU) designation from Howard Terminal.

As you know, the proposed Howard Terminal project would convert a piece of land, which both the professional staff and board of the Port of Oakland have deemed unsuited to meet the needs of a modern seaport, into a mixed-use development – significantly heightening its value beyond the informal parking lot currently on that site. As BCDC staff concluded in their report recommending the removal of Howard Terminal's PPU designation, the use of Howard Terminal is not necessary to meet our region's current and future cargo capacity needs. Per the staff report, the forecasted growth of regional cargo needs can be met without the Howard Terminal site – and even in the case of a moderate growth scenario, would remain well above the cargo growth patterns that Oakland has seen over the last 12 years.

Given Howard Terminal's location adjacent to Jack London Square, and to transit and transportation, the proposed Howard Terminal development project is a much better use of the site. It would bring with it historic regional benefits. That is why the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) both designated Howard Terminal as a "Priority Development Area," in the unanimously approved Plan Bay Area 2050. The unprecedented investments that would come with the proposed project would bring with it much-needed housing, jobs, and infrastructure improvements to the area.

In my role as the Chair of the Assembly Housing and Community Development Committee, I grapple every day with how to create more much-needed housing in our communities – and to do it in a way that supports our working families. That's why I'm excited to see that the proposed Howard Terminal development includes 3,000 housing units, with the City of Oakland requiring that 15% of units be affordable, as well as 25,000 construction jobs, and 7,100 permanent jobs – including saving thousands of current jobs for employees who work at the Oakland Coliseum.

Furthermore, creating more homes with access to existing transit systems is crucial to reducing our region's greenhouse gas emissions, while also meeting our growing housing needs. The proposed Howard Terminal project would provide future residents with the opportunity for convenient, car-free living. It also includes 18 acres of new parks and waterfront open space, which can be enjoyed by current and future Oakland residents alike.

Projects that bring with them these kinds of gains for our region are rare – that is why I am writing to respectfully urge you to allow the Howard Terminal project to move forward, by voting tomorrow to approve the removal of the Port Priority Use Designation. Not doing so would result in a tremendous loss for the City of Oakland and the entire East Bay community. We are counting on you to keep this proposal on track, and moving forward.

Thank you for your consideration, and for your continued service to our region on the BCDC.

Sincerely,

A handwritten signature in black ink that reads "Buffy Wicks". The signature is written in a cursive, flowing style.

Buffy Wicks

Chair, Assembly Housing and Community Development Committee
Member, Assembly District 15

From: Lary Heath
Sent: Wednesday, June 29, 2022 9:02 PM
To: ReceptionDesk@BCDC
Subject: Howard Terminal

Commissioners,

This is a remarkable and likely singular opportunity to cleanup a waterfront property for the first time in possibly over 100+ years.

This area is as yet, being polluted, and no one cares.

This is on you.

The A's project can fix it.

Lary Heath
Please email, no text messages

From: Aaron Sosnowski

Sent: Wednesday, June 29, 2022 9:22 PM

To: BCDC PublicComment

Subject: Howard Terminal Approval

Hello,

I've been an A's fan since I was 6 years old and have been attending the Coliseum facility for 40 years. I'm sure you've received a lot of notes like this but man this new stadium dilemma has dragged on long enough. How tragic would it be if the A's leave town.? We've already lost the Warriors and Raiders, two historic franchises to go along with our third in the A's. I hope you all see fit to approve this project and give the community what it deserves. A new stadium has incredible implications beyond the sport that is played in it and Oakland is richly deserving of something that represents the future and brings the incredible community together while preserving the tradition of professional baseball in Oakland. We've all waited long enough, our time is NOW, please approve and let's step forward into the light!!

Thank You,

Aaron Sosnowski

From: Phil Sandri

Sent: Wednesday, June 29, 2022 9:25 PM

To: BCDC PublicComment

Subject: Remove Port Priority Use Area Designation at Howard Terminal

Commissioners-

I am an inner East Bay resident who spent much of my high school and college weekends and summers in the 1980's working in the maritime business in and around Jack London Square. I strongly believe the A's baseball stadium project will bring a much needed economic boost to the region without negatively impacting maritime activities. I urge the Commission to follow staff recommendation and remove the Port Priority Use Area designation at Howard Terminal so this vital project can move forward.

Thank you.

-Phil Sandri

From: Jay Cohen
Sent: Wednesday, June 29, 2022 9:37 PM
To: BCDC PublicComment
Subject: Show of support - A's stay in Oakland

I am a 20 year Oakland resident.

Please know how important it is to me and my family to have the A's in Oakland.

Jay Cohen
#howardterminalorbust

From: Kevin McCarthy
Sent: Wednesday, June 29, 2022 10:21 PM
To: BCDC PublicComment
Subject: Howard Terminal public comment

Dear BCDC Members,

Please support the future of Oakland and vote to remove the Port Priority Use Area designation at Howard Terminal. A new baseball stadium development at this site is crucial to keeping Oakland as a world class city.

The Howard Terminal development will create jobs and housing, including much needed affordable housing, as well as park land and community spaces. And the Port itself has acknowledged there is no use for the Howard Terminal at the Port.

It's good for jobs, it's good for the community, it's good for housing, it's good for Oakland and it's good for the East Bay. Don't preserve an empty parking lot at the expense of a vibrant Oakland. Please support the Athletics stadium project and vote to remove the Port Priority Use Area designation at Howard Terminal and allow the A's project to move forward.

Thank you,
Kevin McCarthy
Oakland, CA 94602

From: Jack Morris
Sent: Wednesday, June 29, 2022 11:06 PM
To: BCDC PublicComment
Subject: Oakland A's Howard Terminal Project

San Francisco Bay Conservation and Development Commission
375 Beale St., Suite 510
San Francisco, CA 94105

Dear Commissioners of the Bay Conservation and Development Commission:

As an Oakland resident and business owner, I am writing in strong support of removing the Port Priority Use Area designation at Howard Terminal at the Port of Oakland. This project is a once-in-a-generation economic development opportunity for the region that will link the waterfront with downtown Oakland.

This new ballpark at the waterfront will generate billions in economic activity for the region and revitalize the Jack London Square District with thriving retail, restaurants, and small businesses. This project will help fix roads, improve pedestrian and rail safety, and build 3,000 units of desperately needed housing. The A's project also promises to return public access to the waterfront with over 18 acres of public parks and open greenspace. Furthermore, Oakland residents will benefit from the transformative environmental and community benefits this project will bring.

It is important to note the Port of Oakland has already determined this site is not needed now or in the future for Port activities. The Port of Oakland has also voted unanimously in favor of the A's proposed project, making clear that redevelopment is the better course of action for the Port's long-term viability.

I urge you to approve the removal of Howard Terminal from Port Priority Use at your upcoming meeting on June 30th and stand ready to support the project's success for decades to come.

Respectfully,

Jack Morris

Founder and Principal, Chowa Enterprises

Member, Town Business

Members of the BCDC:

I am writing you today to oppose Amendment 2-19, and ask that the BCDC support the SPAC and recommendation to keep the Seaport Priority Use designation for Howard Terminal.

As you know, the SPAC has voted to utilize the independent, BCDC-commissioned, and peer-reviewed cargo forecast by the Tioga Group as the basis for determining the future needs for preservation of seaport lands in the Bay. This SPAC-approved study clearly shows that under nearly every future scenario, with the notable exception of extremely low growth, Howard Terminal was needed to meet our future cargo capacity. The Tioga report also found that Howard Terminal was the only available space which could readily accommodate all three types of potential future cargo needs.

The Port of Oakland is not suffering from low growth—in 2021 it set an all-time high record for cargo imports, as did nearly every other major container port in North America. By all indications, the Port is in the strong growth scenario, and Howard Terminal is more essential than ever. Howard Terminal itself actively serves as a lay-berth for vessels, and a critical staging area for nearly 400,000 truck and container moves per year, in addition to offering additional container and intermodal equipment storage.

Port of Oakland Executive Director Danny Wan has called staffs' projections "aggressive" and said his port has seen about a 2% annual growth over the past 20 years, and only about 1% a year over the last decade. However, the Port recently put out a press release touting that its import cargo volume increased 6.3% in February compared to the same month last year. In fact, historical port numbers show that import volume went up 4%-6% annually in four of the last six years.

The State of California's and Port of Oakland's own research shows that we are suffering from a truck parking shortage statewide, and specifically in the urbanized Bay Area, that there is no equivalent acreage available to offset the usage of Howard Terminal at this time.

In addition, Howard Terminal was also recently identified as the site of a partnership between the Port of Oakland and the U.S. Department of Agriculture (USDA) to ease congested ports and supply chain issues through a 25-acre pop-up site dedicated to filling empty shipping containers with commodities like soybeans, dairy, nuts, fruit, and more. This initiative further demonstrates Howard Terminal's crucial role in ensuring the Port of Oakland's long-term success and viability, and its capacity to continue operating as a key gear in the movement of agricultural goods throughout Northern California.

We are now in a period where the supply chain is heavily congested, and every other port in the country is looking to grow, adapt, and maximize land available for key maritime and support functions. BCDC should be looking at ways to increase port land to support maritime operations—not remove it. The Port of Oakland serves as the home for tens of thousands of good, skilled, living-wage jobs, and is the hub of our regional economy. If Howard Terminal is removed from port priority use it could harm the competitiveness of the port and result in the loss of millions in revenue and thousands of good paying jobs.

I support the recommendation of the SPAC and SPAC staff and consultants who agree that Howard Terminal should not be removed from port priority use.

Thank you for your time and consideration.

Tracey Enkip

Adrian Vaupell

Christina Merlo

Angel Alvarado

June 29th, 2022

Dear BCDC Commissioners,

Please support BPA 2-19 and vote yes to remove Port Priority Use Area designation from Howard Terminal. BCDC Staff agree with the Oakland Athletics and Port of Oakland that under a moderate growth scenario Howard Terminal would not detract from the regional capability to handle cargo forecasts across all three cargo types. Howard Terminal is separated from the rest of the Port by Schnitzer Steel and located directly next to Jack London Square. The site itself is included in the Plan Bay Area 2050 as a Priority Development Area by the Metropolitan Transportation Commission.

As the state agency responsible for leading the Bay Area's preparedness for, and resilience to, rising sea level, tides, and storm surge due to climate change; the Howard Terminal site would be highly susceptible to sea level rise by 2050 if left in its current state as an ancillary storage space. The proposed Waterfront Ballpark District would raise the level of the site and mitigate contaminated materials from flowing into San Francisco Bay.

Removing Port PUA from the Howard Terminal site would address a key charge of the BCDC Commission by expanding public access to the Bay if the potential Waterfront Ballpark District comes to fruition. Approval of BPA No 2-19 would not increase the need to fill other portions of the Bay for future port development directly.

For almost 10 years, Howard Terminal has not been used for anything more than ancillary maritime support uses. While of value to maritime interests, the Port of Oakland has identified where those uses can be relocated to as described in the staff report. Oakland deserves public parks, access to the shoreline, and environmental justice. A Waterfront Ballpark District and a Port can co-exist, it does not have to be one or the other. I reiterate my support to amend the San Francisco Bay Plan and Seaport Plan to remove the Port Priority Use Area (PUA) designation at Howard Terminal at the Port of Oakland.

Thank you for your consideration.

From: Carlos Tenorio II

Sent: Wednesday, June 29, 2022 11:47 PM

To: BCDC PublicComment

Subject: BCDC Vote on the Athletics possible use of Howard Terminal

Good day members of BCDC,

My name is Carlos Tenorio II. I am a resident of Albuquerque, New Mexico but have deep roots to the great city of Oakland. Growing up my great grandfather, Frank, who was a life long A's and Raiders fan told me stories of the good days under the California sun at the coliseum. He passed in 2009 and one of my biggest regrets was not being able to share a game with him in Oakland. I'm 2011 I was able to attend a game with my great grandma ,Priscilla, and I'm glad I did as she passed away on the 15th of this month. I am so thankful I got to watch the A's in Oakland with her and see the joy in her face when she saw the A's take the field. Almost as if she was transported back to the 70's and 80's teams that brought so much joy to many. If Howard Terminal is not approved and the Athletics move, it would be stealing opportunities to share a ballgame with loved ones not only from me, but thousands of life long A's fans. I hope that this committee votes to approve access for this project to move forward for the thousands of A's fans who haven't made memories at the ballpark with their family. Thank you for your time and Go A's.

Sincerely,

Carlos J Tenorio II

From: Holden Musso
Sent: Wednesday, June 29, 2022 11:59 PM
To: BCDC PublicComment
Subject: Bigger Than Baseball

Dear Commissioners of the Bay Conservation and Development Commission,

I am writing to urge you to vote to remove PPU designation from the Howard Property to enable a once in a lifetime project that includes a beautiful waterfront ballpark destination, housing, office space, public spaces, and a new hotel to revitalize this underutilized cargo terminal and the surrounding area. Once developed, this project will generate an estimated 3,600 direct jobs, 2,400 indirect jobs, more than \$7 billion in economic activity in Oakland and the East Bay, with \$10 million in property taxes every year created for the city and county once completed. 1 year of the revenue generated by the development's property taxes is equal to over 50 years of it staying with the PPU designation, languishing as an impractical property to the Port for decades. In 15 years, we will be glad we did this as the "but for" taxes that are only created with the project, revitalization of the polluted and outdated Howard Terminal, new life sparked into the neighboring Jack London Square with small businesses looking to rebound from COVID, and other huge economic benefits don't happen without letting this project move forward. A privately financed waterfront ballpark will be a boon to the city of Oakland while driving tourists and baseball enthusiasts to the site every year it will especially ensure the future of a beloved sports team in its community of fans and East Bay's hardworking citizens who bond over their love for their favorite ball club. For the reasons above, I urge you to vote in favor of removing PPU designation from the Howard Property so that a state of the art privately financed ballpark and economic tour de force that will transform the area and future amidst a struggling post-COVID time into a vibrant one.

Keep the Oakland A's in Oakland
Rooted in Oakland Forever
Holden Musso

From: Joan Dark

Sent: Thursday, June 30, 2022 12:36 AM

To: BCDC PublicComment

Subject: Howard Terminal A's Stadium

I'm writing to wonder why BCDC would ever approve a stadium in this location. It's crazy, destructive, out of scale for our city, unnecessary, a huge waste of money, nobody wants it but the A's, Oakland's going to get stuck paying for it, bad for the Bay, what about waters rising? Chemicals? Port land and jobs? PLEASE DO NOT APPROVE THIS. Do your jobs and protect the Bay!

Joan Dark

Oakland

From: Jacob Russell-Snyder
Sent: Thursday, June 30, 2022 2:08 AM
To: BCDC PublicComment
Subject: Vote yes for Howard terminal

I'm an Oakland resident, born and raised. I live in District 3 in West Oakland.

I am strongly in favor of the Howard Terminal project. I work as a San Francisco tour guide and travel planner. One of the most popular activities for visitors is taking the ferry over to Sausalito and spending the afternoon at the shops and restaurants on the bay.

That should be Jack London Square. The ferry ride is beautiful, the estuary is scenic, but aside from going to Heinhold's First and Last Chance Saloon, there's nothing to do. It's always been like that. Ever since I was a kid. It is a gorgeous area that has never lived up to its potential as a tourist attraction.

The ballpark at Howard Terminal will change that. Imagine having a public park on the roof of a stadium open to the public 365 days a year with the opportunity to go to ball games during baseball season.

And if we say no to this project, what is the plan for Jack London Square? I know we all hate billionaires, but who else is going to turn that area into the thriving neighborhood it should be. I have not heard any alternative ideas for Jack London Square. What's the plan? Another Barnes & Noble?

Cities need to continue to grow. Say yes to Howard Terminal.

Jacob Russell-Snyder
Bishop O'Dowd High School
Class of 97

From: Matt Kratoville

Sent: Thursday, June 30, 2022 5:40 AM

To: BCDC PublicComment

Subject: Please please please vote YES on the Howard Terminal Ballpark!!!

Dear People:

Please please please vote YES on the Howard Terminal Ballpark!!!

After all, it'd be lots of fun to see the annual Bay Bridge series there between the Giants and the A's!!!

Thank you very much!!!

Matt Kratoville, Ignacio CA

From: Julio Villafan

Sent: Thursday, June 30, 2022 6:34 AM

To: BCDC PublicComment

Subject: Howard Terminal Meeting

As an Oakland native and long time East Bay resident, I submit this email to show my support to removing port priority from Howard Terminal and to give Oaklanders the opportunity to access that part of the waterfront property. If the San Francisco Giants and subsequently the Golden State Warriors were given that opportunity to build their facilities along the waterfront on the other side of the bay, the Oakland Athletics should also be granted that opportunity as well.

This project has the opportunity to transform West Oakland the way it never has been transformed. It would immediately create jobs in the short term as well as the long term and it would also preserve those jobs that already exist at the Oakland Coliseum. This is a no brainer vote for the city of Oakland, the East Bay and the entire Bay Area. A project that could make Oaklanders proud for generations to come.

--

Julio C. Villafán

From: Brad Jerger

Sent: Thursday, June 30, 2022 7:47 AM

To: BCDC PublicComment

Subject: Keep the A's in Oakland

The pros out weigh the cons for the city of Oakland having new development in downtown Oakland, much needed tax revenue for the city, attract visitors to Oakland and investment in affordable housing.

Vote Yes.

From: Griffin S Ansel
Sent: Thursday, June 30, 2022 8:47 AM
To: BCDC PublicComment
Subject: Keep our A's in Oakland!

Hello,

Having a sports team keeps Oakland a city that's known around the country. As someone from the city who studied on the other coast for college, it killed me to have to say I was from San Francisco when people said "what's Oakland?" I used to say, "it's the home of the Oakland A's, Oakland Raiders, and Warriors," but now the latter two aren't true. I'm loyal to this city and have retired my Raiders jerseys to the closet, and I'll do the same to the A's if they leave. I want to urge you, though, the value of having young kids be proud of this city, wearing "Oakland" on their chests with pride. Teams build community spirit, love of a city, and give us something to unite behind.

With the A's offering to privately fund this stadium and improve the surrounding area while doing so, there's no reason not to expend every effort to keep our last remaining pro sports team. Unlike most new stadiums that are publicly funded, Oakland would get a free economic boost from the temporary jobs designing and constructing the stadium and the permanent jobs from running it during the season. We also gain the A's investment in the community through the Rooted in Oakland fund and the tourism/MLB money major events like the all-star game, World Series, and even popular teams visiting from out of town that the stadium would bring. In the offseason, we get a concert venue to continue Oakland's legacy as a major stop for the world's biggest musicians and a place for our local teams to play their championship games. Plus, it keeps local money in Oakland, with baseball fans not having to take Bart to San Francisco to spend their money on tickets and hot dogs.

The A's bring economic and social prosperity to Oakland, and are a source of pride in our city. The green and gold can be seen everywhere, and the cursive Oakland on the uniforms is iconic. Don't relegate that legacy to the history books, take today to write the next chapter of the city's Athletics story.

Sincerely,

Griffin Ansel
A's fan and Oakland resident

From: Michael Cecconi
Sent: Thursday, June 30, 2022 8:49 AM
To: BCDC PublicComment
Subject: Oakland A's... MY team

Please keep the A's in Oakland.

As a fan of local, approachable, oh-so-proud of baseball, I need the A's to stay in Oakland. They are ours and we theirs. Let's keep them hear, show them the love, and enjoy them for years to come.

Michael

From: Fin Cecconi
Sent: Thursday, June 30, 2022 8:51 AM
To: BCDC PublicComment
Subject: A's in Oakland forever!

Please keep the A's in Oakland.

As a fan of local, approachable, oh-so-proud of baseball, I need the A's to stay in Oakland. They are ours and we theirs. Let's keep them hear, show them the love, and enjoy them for years to come.

Fin

From: Beau Blanchard

Sent: Thursday, June 30, 2022 9:04 AM

To: BCDC PublicComment

Subject: Please save the Oakland A's

Hi,

As a lifelong CA & Bay Area resident I implore you to vote in favor of the Howard Terminal Project. Losing the last major sports team in the East Bay would be a crushing blow on many, many levels, and the loss in revenue, housing, and jobs would be very shortsighted. It would be unforgivable.

Those who are against it have been spreading misinformation and using dirty tactics to mislead the public, and I hope you can see through this to help bring Oakland and the East Bay an opportunity for longterm rejuvenation.

Thanks in advance,
Beau Blanchard

From: hopkfam

Sent: Thursday, June 30, 2022 9:12 AM

To: BCDC PublicComment

Subject: 6-30-22 Meeting: Item 8

I strongly support a yes vote on the Howard Terminal Stadium Project. A new stadium would revitalize the area, provide employment for many on an ongoing basis and greatly strengthen Oakland's identity as a great place to live.

Pastor Jim Hopkins

Lakeshore Avenue Baptist Church, Oakland

From: Will Stein
Sent: Thursday, June 30, 2022 9:15 AM
To: BCDC PublicComment
Subject: Support removing port priority at Howard Terminal

Hello commissioners,

Please support removing port priority for Howard Terminal so that the A's may continue to pursue developing this terribly underutilized part of Oakland. Oaklanders have not had adequate waterfront access for far too long, and the community benefits and affordable housing are desperately needed to support our most vulnerable citizens. It must also be considered that if the A's are not allowed to develop this site, and address issues this site is facing, such as toxic waste and sea level rise, then who will? Voting no would pass the buck yet again to future generations to deal with the environmental and climate failures of today. Additionally, this project would help ensure that the Bay does not get filled in at all, if anything there will be an increase to the Bay with the addition of the turning basin in Howard Terminal. I could list a thousand more reasons why this vote is a no brainer, but I hope you understand that voting against removing port priority would be a decision that Oakland, Alameda County, the East Bay, and the larger Northern California region will come to deeply regret. As a lifetime resident of Alameda County and current resident of Oakland, please consider the well-being of the regions future. I can't help but be attached to the A's as they're the only team that has always worn the name of this city so proudly on their jerseys. My dad immigrated to this country and fell in love with this team and this city, and passed that love on to me before his death. I hope we can all share in the prosperity of this beautiful place for many years to come, but you must support removing port priority at Howard terminal. Thank you for your consideration.

Best,
Will Stein

--

Will Stein
B.A. in Political Science | he/him/his

From: Gina McLean

Sent: Thursday, June 30, 2022 9:19 AM

To: BCDC PublicComment

Subject: Public comment

To whom this may concern,

Please remove the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County, Bay Plan Amendment No. 2-19

Regards

Gina McLean

From: Liz DiGiorgio

Sent: Thursday, June 30, 2022 9:20 AM

To: BCDC PublicComment

Subject: Oakland A's at Howard Terminal

Good morning;

I applaud the staff recommendation to accept Resolution No. 2022-02 to move forward in removing barriers to build the A's new stadium at Howard Terminal.

Oakland has a chance to bring much needed commerce, jobs and housing by accepting this project and it would be a shame to see the city lose its only remaining sports team and an opportunity in the likes of China Basin.

I urge the Commission to vote yes so that this project can move forward.

Thank you for your consideration

Liz DiGiorgio

From: Wesley Henderson
Sent: Thursday, June 30, 2022 9:31 AM
To: BCDC PublicComment
Subject: Don't let the A's go!!!!

Please remove the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County, Bay Plan Amendment No. 2-19

Sent from my iPhone

From: Percival Arcibal
Sent: Thursday, June 30, 2022 9:33 AM
To: BCDC PublicComment
Subject: Please remove Port Authorization

Ladies & Gentlemen of the Commission:

Good morning Commissioners. As a lifelong East Oakland Resident (70th Ave & East 14th St/International Blvd), I am disappointed in the EOSA, who appear to be supported indirectly by the San Francisco Giants' Larry Baer. The EOSA do not represent East Oakland residents as they claim to do. Keeping the A's in Oakland maintains the identity of the City. John Fisher will not always own the A's. However, he has the custody to move them out. The OAKLAND A's is the identity of the City more than any other sports franchise that have existed in Oakland.

Please remove the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County, Bay Plan Amendment No. 2-19

Thank you,
Mr. Percival Arcibal

From: joel irons

Sent: Thursday, June 30, 2022 9:36 AM

To: BCDC PublicComment

Subject: "Oakland" A's

A's stay in California!

Please remove the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County, Bay Plan Amendment No. 2-19

Joel Irons

From:

Sent: Thursday, June 30, 2022 9:31 AM

To: Abad, Reggie@BCDC

Subject: Vote YES for the A's Ballpark

PLEASE pass this on to all the commissioners to VOTE YES and allow the A's to build their ballpark. We don't want to diminish the importance of the PORT and want to see it continue to be an important part of Oakland and the East Bay but the two can co-exist.

Thanks very much,
Susan Sachen, Oakland resident, voter

From: Sean O'Connell

Sent: Thursday, June 30, 2022 9:36 AM

To: BCDC PublicComment

Subject: Howard Terminal Oakland A's

To whom it may concern,

I've been an A's fan all my life and having the A's represent an important part of this city's history. Please remove the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County Bay Plan Amendment No. 2-19

Sean O'Connell

From: Paul Krill

Sent: Thursday, June 30, 2022 9:43 AM

To: BCDC PublicComment

Subject: Keep the A's in Oakland!

Please vote yes on the Howard Terminal question. Oakland needs the A's and if this vote fails, they are gone forever. The tract they want apparently is used for nothing more than parking and has no potential for future port use.

Paul Krill

From: Alvirdia Owens

Sent: Thursday, June 30, 2022 10:00 AM

To: BCDC PublicComment

Subject: Howard Terminal/A's

Environmentally Safe to Build on the Waterfront of Oakland.? No it isn't!

1) Sea Level Rise: The Port of Oakland is built upon Bay Fill! And that includes Howard Terminal.

2) Flooding during High Tide and Heavy rains are Ongoing issues and increasingly vulnerable, because they are chronically subsiding and a Higher risk of liquefaction during seismic events (Earthquakes).

3) Simply put the land/bay fill is eroding away.

4) It is not sensible to think the impact of such a structure as a BallPark that includes Luxury Condos is feasible due to Weight alone on this Bay Filled Property of the Port of Oakland.

5) Sea Level Rise studies indicate the Bay and low lying areas will experience significant increase of 11-24 ft, due to Offshore of Oakland ocean levels in less than 80yrs.** Per :Oakland Sea Level Rise Road map

Environmental Justice for West Oakland needs to be addressed and Mitigated.

a recent study released by a SF based company called Aclima in partnership with the Bay Area Air Quality Management District (BAAQMD) and community based West Oakland Environmental Impact Project (WOEIP) in 2019.

The Washington Post reported on this study of this Block by Block data which shows pollution's stark toll on people of color.

Aclima conducted Mobile air quality monitoring in all 9 Bay area counties which includes Oakland, and in San Francisco.

The numbers rival and challenges the stationary monitoring accuracy There are huge discrepancies within the same block of 800% in some instances.

Building the Terminal/Luxury Condo would have a negative impact in Air Quality,in already heavily impacted West Oakland.

Please Vote No on giving A's the right of use of this public property for this Howard Terminal private Project

From: William Porterfield
Sent: Thursday, June 30, 2022 10:03 AM
To: BCDC PublicComment
Subject: Howard terminal project

Hi there,

I am an Oakland resident in favor of the Howard terminal project. It would be particularly good for housing in Oakland, provide good jobs and add public space. There are some aspects that make it not perfect but overall it would be a great benefit to Oakland.

Thanks,

Will Porterfield

From: Jeff Monson

Sent: Thursday, June 30, 2022 10:05 AM

To: BCDC PublicComment

Subject: Please approve this plan

Revitalize this area of the port and put this land to use in a way that will drive revenue for the City of Oakland!

The examples are there - Baltimore, Denver, San Diego, Seattle and right across the Bay in SF - build it, and not only will the stands be full, but the area around the park will become a destination attraction for people all over northern CA to come!

And when people come, they bring money - This will help Oakland's revenue problem!

LETS GO OAKLAND!

Jeff Monson

3rd generation Oaklander, 48 years in this fair city

From: Emilio Mariscal

Sent: Thursday, June 30, 2022 10:05 AM

To: BCDC PublicComment

Subject: Oakland A's stadium is positive

Hello. I support the new proposed A's stadium at Jack London Square. I believe the benefits of that project outweigh any detriments. Please support the project.

Best Regards,

Emilio Mariscal

--

Best Regards,

Emilio Mariscal

From: Bill Kramer

Sent: Thursday, June 30, 2022 10:08 AM

To: BCDC PublicComment

Subject: I support the Oakland A's ballpark at Howard Terminal

I am a small business owner who has lived in Oakland for over 30 years and a ballpark will benefit the city. Please vote in favor.

From: TheNolt

Sent: Thursday, June 30, 2022 10:22 AM

To: BCDC PublicComment

Subject: Revitalize Oakland

If ever there was a last-ditch, once-in-a-Century type of event that could totally revitalize and reshape a city it is this ballpark.

1. Brings residents, tourists, and entire bay area to Oakland waterfront.
2. All sorts of development to occur as a direct result of this project. For example (and I know people laugh at this)... the Gondola! This brings a whole Disneyland aspect into Oakland, like the cable car in SF. Finishes near stadium site, originates near a BART line in Oakland. Unbelievable potential for this development-wise.
3. Opportunity to redevelop the entire existing Oakland-Alameda County Coliseum site that suits the community.
4. Ferry service connecting the ballpark site to Alviso, Redwood City, South SF, and all around bay
5. Train service to game (figure it out, stops right there, it can be done).
6. Ballpark much cleaner than Schnitzer Steel, wharf dumping, etc.

Get this done!

From: Joseph Forderer
Sent: Thursday, June 30, 2022 10:24 AM
To: BCDC PublicComment
Subject: Go A's

Does Oakland want to be in the same league as Boise, Des Moines, & Charlotte (all cities that don't have an MLB team) or in the same league as San Francisco, Chicago, & New York?

From: Steve Eakle

Sent: Thursday, June 30, 2022 10:27 AM

To: BCDC PublicComment

Subject: Oakland A's Ball Park

Please approve the project to create a new ball park for the Oakland A's!
The A's have been so important to the community and will continue to be in the future.

SE

From: Warren Siegel

Sent: Thursday, June 30, 2022 10:27 AM

To: BCDC PublicComment

Subject: APPROVE THE A'S STADIUM PROJECT

Please vote to approve the A's stadium project at today's meeting. It will change both the look and the number of people visiting the waterfront area. I am sure we can design and add new roads, overpasses, freeway on and offramps, and pedestrian walkways so that all will have better access to the area. An exclusive road from the port to the highway for port trucks as well as another road used only for express buses from BART to the ball park on game days should be part of the infrastructure improvement plans.

I have attended A's games since my first year as a bay area resident in 1969. I look forward to spending more time in your waterfront area once the new stadium is open. NO MORE DELAYS! VOTE YES!

Warren Siegel
Lafayette, CA

From: Carolyn Tawasha
Sent: Thursday, June 30, 2022 10:27 AM
To: BCDC PublicComment
Subject: Oakland A's Stadium

Hello,

My name is Carolyn Tawasha. I have been an Oakland resident for over 30 years and also work in the downtown Old Oakland district.

I'm writing to encourage your support for the removal of port priority for the waterfront site so an Oakland A's Ballpark at Howard Terminal can be built. This project will bring billions of dollars to Oakland. More than that, it has the potential to be a point of regional pride, revitalize the waterfront will provide much needed jobs and housing (including affordable housing).

Over the years, I have seen the waterfront area west of the 880 freeway become more and more desolate and depressing, and this has only become worse since the pandemic. As a small business owner, I am excited about the prospect of the Ballpark project bringing more density and opportunity to the area.

The steel and trucking companies opposed to the project have spent a lot of money to lobby against the project – they do not offer Oaklanders anything for the future of West Oakland and the waterfront other than continued pollution. Their status quo only serves to harm residents and business in the area and would be an incredible lost opportunity.

I encourage you to support this project for Oakland's future!

Best regards,
Carolyn

Carolyn J. Tawasha P.C.

From: Martin Gonzalez

Sent: Thursday, June 30, 2022 10:33 AM

To: BCDC PublicComment

Subject:

Good morning

Please amend the Bay Plan for Howard Terminal. I believe it would be beneficial to the residents of Oakland and to the whole Bay Area, it is Bigger than Baseball.

As an Oakland resident, I know I will spend quality time and enjoy the outdoor area in the future. I am Oakland born and raised. I appreciate the process and your time.

Sincerely,

Martin Gonzalez

From: Brennan

Sent: Thursday, June 30, 2022 10:34 AM

To: BCDC PublicComment

Subject: A's Ballpark

Please approve the A's ballpark. I've been a life long fan and would be crushed to see them leave Oakland. We can make our waterfront an amazing place and this would help continue the amazing waterfront experience along the Bay in Oakland. --

Brennan

From: Sierra Thai-Binh

Sent: Thursday, June 30, 2022 10:36 AM

To: BCDC PublicComment

Subject: Please help keep the A's in Oakland

I am writing in support of allowing the planning and building of a new stadium for the Oakland A's at Howard Terminal. I have been a lifelong A's fan, born and raised in Oakland. I am an Oakland educator and parent of two. My children and I are avid baseball fans and regularly attend games. We have endured the heartbreak of losing our other sports teams over the years and, honestly, I can't bear the thought of losing another.

Please vote to support whatever zoning changes are needed to allow this amazing, sustainable, family and team-friendly stadium to be built in Oakland. There are so many positives that can come with this project that would greatly benefit our city for generations to come.

Sincerely,
Sierra Thai-Binh

From: T B

Sent: Thursday, June 30, 2022 10:38 AM

To: BCDC PublicComment

Subject: Please vote Yes on A's @ Howard Terminal

The A's need to stay in Oakland and Howard Terminal is the best choice for the city of Oakland and the A's! This will clean up the port and bring much needed development to this area.

Even more so, get rid of the polluters Schnitzer Steel - they are poisoning Oakland residents. Noel Gallo does not have the best interests of Oakland or his constituents in mind and his posturing, blatant misinformation and grandstanding are ridiculous and make it clear that he is bought and paid for by Schintzer Steel and other Oakland polluters.

Best,

Tyler Blum

Lifetime Bay Area Resident & A's Fan

From: Jeff Everett

Sent: Thursday, June 30, 2022 10:42 AM

To: BCDC PublicComment

Subject: Oakland A's stadium

I support the new Oakland stadium!

Jeff Everett

From: Debbie Anderson

Sent: Thursday, June 30, 2022 10:44 AM

To: BCDC PublicComment

Subject: Please keep the A's in Oakland!

As a life-long A's fan, I am heartbroken to even consider the fact that the A's could possibly leave Oakland. Please keep them Rooted in Oakland!

Debbie Anderson

From: Jim Baldocchi

Sent: Thursday, June 30, 2022 10:45 AM

To: BCDC PublicComment

Subject: Yes vote for the Howard Terminal Baseball Park!

Please vote in favor of the new stadium. My family lives in Oakland and we are season ticket holders. We would love to have a new stadium at the Howard Terminal location. I believe that the stadium will be good for Oakland. Drawing the tourist trade and creating jobs, a boost to the hotel industry, needed community housing and having a major sporting team rooted in oakland. It will also put Jack London square on the map with restaurants and shops. Public transportation will benefit too. I believe it's a win-win for Oakland. Thank you for your consideration.

--

James Baldocchi

From: Peter Guerrero
Sent: Thursday, June 30, 2022 11:05 AM
To: BCDC PublicComment
Subject: Oakland A's Proposal

The current use of Howard Terminal for industrial waste and spare parking for the port (which is shrinking and losing business to other West Coast ports) is unacceptable in this day and age. Oakland needs to reclaim its waterfront for recreation, housing, and economic growth. Please disregard the unacceptable status quo arguments by existing users and support the A's proposal for moving Oakland forward for a first-class, 21st century, environmentally protected waterfront for all.

Peter Guerrero
Kensington, CA

From: Pangasnan, J Tristan, Superior Court
Sent: Thursday, June 30, 2022 11:05 AM
To: BCDC PublicComment
Subject: Please Build Oakland ballpark on Howard Terminal

Hi

I would like to show my support for the Oakland Athletics to build a stadium at Howard Terminal. Using Howard terminal to make a stadium mixed housing is the best use of land just having housing will not generate any funding. Having affordable housing along with waterfront housing. Will make the area more appealing than having trucks parking. Oakland needs more housing. Having a Major League baseball team is good for the community. Being born in Oakland it gives me a sense of pride. The chant "Lets go Oakland" not only roots for the team and for the Town. I don't believe it will interfere with port operations because The big trucks have their own exit and street on 7th Street. There is plenty of parking on that side of the exit. The Sea Level will rise but due to having droughts year after year. I believe the heavy rain will offset the droughts the previous years. Having people come in from all over the East bay to Oakland to root for a team brings in revenue that they would be spending somewhere else. There is Money in the Bay Area that people have disposable income unlike anywhere else. I love the Oakland waterfront but having a stadium and an area to hang out with friends would be better.

Thank you.

Tristan

From: Esperanza Urueña
Sent: Thursday, June 30, 2022 11:07 AM
To: BCDC PublicComment
Subject: Howard Terminal Project

I SUPPORT THIS PROJECT.
WIN FOR THE CITY
WIN FOR THE OAKLAND ATHLETICS FANS
PLEASE GIVE A FUTURE TO PEOPLE
DON'T LET BASEBALL LEAVE THE BAY AREA

Esperanza

From: Terrance Austin
Sent: Thursday, June 30, 2022 11:09 AM
To: BCDC PublicComment
Subject: Strongly in Favor of the Oakland A's

I am a homeowner in Jack London and am in favor of this development.

Thank you!

TERRANCE AUSTIN

Realtor®

Bay Area Modern Real Estate

From: Bill and Barbara Hicks

Sent: Thursday, June 30, 2022 11:10 AM

To: BCDC PublicComment

Subject: Urge Approval of the Oakland A's Application

I strongly urge the San Francisco Bay Conservation and Development Commission to approve the Oakland A's application to amend the use of the Howard Terminal area.

I understand Howard Terminal is essentially used as a parking lot currently. I'm reminded of the Joni Mitchell song "they paved paradise and put up a parking lot"! A stadium on the bay will bring enjoyment to millions of people annually and the spectacular view will remind people of the beauty of the bay. A parking lot for containers doesn't do that.

The Oakland A's future in the Bay Area has come down to this. Wholesome family entertainment carries a value that is to be treasured. Father-son bonds are strengthened and special lifelong memories are forged watching baseball games together. Please support this A's application!

Sincerely,
Bill Hicks

From: Jason Honey
Sent: Thursday, June 30, 2022 11:12 AM
To: BCDC PublicComment
Subject: Approve The A's Howard Terminal Stadium

Dear San Francisco Bay Conservation and Development Commission:

I'm a long-term Oakland resident and a big environmentalist. I wanted to voice my support for the Oakland A's Howard Terminal Stadium project! I know they're doing everything possible to build this project in an environmentally conscious manner. I want Oakland take back some of its waterfront so everyone can enjoy it! Thank you.

Kind regards,
Jason Honey

From: Peter Guerrero

Sent: Thursday, June 30, 2022 11:13 AM

To: BCDC PublicComment

Subject: Oakland Athletics' Application to Remove the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County, Bay Plan Amendment No. 2-19 (PDF)

The current use of Howard Terminal for industrial waste and spare parking for the port (which is shrinking and losing business to other West Coast ports) is unacceptable in this day and age. Oakland needs to reclaim its waterfront for recreation, housing, and economic growth. Please disregard the unacceptable status quo arguments by existing users and support the A's proposal for moving Oakland forward for a first-class, 21st century, environmentally protected waterfront for all.

Peter Guerrero
Kensington, CA

From: Frances Brooks

Sent: Thursday, June 30, 2022 11:22 AM

To: BCDC PublicComment

Subject: Howard Terminal ballpark

Hi there,

As a long time A's fan, I'd to encourage you vote in support of the new ballpark for the A's. As the remaining major sports team in the city, it would be a great to finally get this project done. I've been patiently waiting for this to happen and now you have the chance to make it happen. Please consider what an opportunity to revitalize another section of Oakland this would be. YOU will be able to look back and say that "I was part of the team that made this happen". I know that this decision will not be made lightly but it is worth the hassle to approve this ballpark.

thank you, Go A's
Frances Brooks

From: B Ganguly
Sent: Thursday, June 30, 2022 11:22 AM
To: BCDC PublicComment
Subject: BDCD Vote

Dear Madam/Sir,

As a resident of Oakland, I would like to comment publicly that I am in favor of the Howard Terminal project, due to its economic improvement of the area, and creation of affordable housing. Thank you.

-Bishwa Roop Ganguly
Oakland CA

From: Ben Huang

Sent: Thursday, June 30, 2022 11:28 AM

To: BCDC PublicComment

Subject: A's Stadium @ Howard Terminal

Hi, I am emailing to comment that I live in Jack London Square and I am *strongly* in support of the A's stadium at Howard Terminal and the proposed plan for new construction there.

Thank you,
Ben Huang

From: Alex Mendoza
Sent: Thursday, June 30, 2022 11:40 AM
To: BCDC PublicComment
Subject: Oakland Baby!

Keep the A's in Oakland please!!!

- Alex Mendoza

From: K. Slaughter

Sent: Thursday, June 30, 2022 11:55 AM

To: BCDC PublicComment

Subject: Support for Removal of the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County, Bay Plan Amendment No. 2-19

Hello BCDC Commissioners,

I would like to register my **support** for Removal of the Port Priority Use Area Designation from Howard Terminal in the Port of Oakland, City of Oakland, Alameda County, Bay Plan Amendment No. 2-19.

--

Kieron Slaughter

From: Lary Heath

Sent: Thursday, June 30, 2022 12:04 PM

To: BCDC PublicComment

Subject: Howard Terminal

It is vital to understand, NO ONE but the A's has offered to begin the remediation of the likely ground areas the A's are addressing. The probable pollution of the last 150 years will not be dealt with unless the A's project is allowed to go forward. This area needs to be cleaned up, and, this project will accomplish that.

Lary Heath

Please email, no text messages



June 29, 2022

San Francisco Bay Conservation and Development Commission
375 Beale St., Suite 510
San Francisco, CA 94105

Dear Commissioners of the Bay Conservation and Development Commission,

As a member of Town Business, an initiative launched by 125+ Oakland business leaders to promote economic and civic progress in Oakland, I am writing in strong support of removing the Port Priority Use Area designation at Howard Terminal at the Port of Oakland. The project is a once-in-a-generation economic development opportunity for the region that will link the waterfront with downtown Oakland.

The benefits of this project are both well-established and more important than ever for Oakland. The new ballpark at the waterfront will generate more than \$7 billion in economic activity for the region and revitalize the Jack London Square District with thriving retail, restaurants, and small businesses. Oakland residents deserve the transformative environmental and community benefits this project will bring. The A's project promises to clean-up the Howard Terminal site with private dollars and return public access to the waterfront with over 18 acres of public parks and open greenspace.

As we think about the future use of Oakland's waterfront, it is important to note the Port of Oakland has already determined this site is not needed now or in the future for Port activities. Danny Wan, the Port of Oakland's Executive Director, is on record stating "the use of Howard Terminal for the Oakland A's ballpark, housing and retail will not hurt the operations or business of the Port's shipping partners. The Port of Oakland has also voted unanimously in favor of the A's proposed project, making clear that redevelopment is the better course of action for the Port's long-term viability. Lastly, the A's proposal includes a significant commitment to return 20% of the site area to the Port of Oakland should the Port determine the land is needed to expand the Inner Harbor Basin.

For the reasons stated above, I urge you to approve the removal of Howard Terminal from Port Priority Use at your upcoming meeting on June 30th and stand ready to support the project's success for decades to come. Respectfully,

Patrick L. Hayes
Vice President Government Affairs
The Clorox Company

From: Mark Deloso
Sent: Thursday, June 30, 2022 12:42 PM
To: BCDC PublicComment
Subject: BCDC Vote

Please Approve!! Win Win Deal!

From: Vince Lipinski
Sent: Thursday, June 30, 2022 12:48 PM
To: BCDC PublicComment
Subject: Build the ballpark at Howard Terminal

I vote yes! Build the A's ballpark at Howard Terminal.

-Vince Lipinski

From: Gigi Lam

Sent: Thursday, June 30, 2022 1:08 PM

To: BCDC PublicComment

Subject: A's need to stay in Oakland

My name is Gianni

I am a resident of Oakland. Vote yes to keep the A's in Oakland and build at Howard Terminal. Many people rely on the extra income that sports brings to the city of Oakland; additionally, the A's helped many of the kids stay out of trouble by doing community outreach. Many children, as well as many family and business owners, require the A's now more than ever. Don't take away the only thing that connects us when everything else has been taken away.

Thank you.

From: Evey Hwang

Sent: Thursday, June 30, 2022 2:13 PM

To: BCDC PublicComment

Subject: Vote No to As application to remove Port priority use area designation from Howard Terminal Bay Plan Amendment 2-19

Dear BCDC,

As the President of Customs Brokers and Forwarders Association of Northern California, we represent users of the Port services and as such, a voice for port community.

Adding to verbal comments during today's Public Hearing, I'm submitting written comments and to provide the article I cited during comment.

My written comment:

As port stakeholders, we are very concerned about Port's future and viability. Never mind on satisfying Seaport Compatibility Measure and not having to access non-bay fill land for Port future, let's talk Environmental Justice.

<https://www.wgbh.org/news/local-news/2022/05/23/barriers-at-the-beach-state-law-and-town-rules-keep-most-of-mass-shoreline-off-limits>

Oakland As dangle shore access however reality is building private luxury condos will be a concern due to private ownership. Please review the attached link and quoting Peter Shelley, Sr Counsel at Conservation Law Foundation Boston:

"It's an iconic circumstance of people wanting statemoney, but not wanting taxpayers to actually come and be able to benefit from their investment."

For the sake of Oakland, please do due diligence reviews and make sure you know what and who you are saying yes or no to decision of removal of Howard Terminal from Port land use.

Respectfully,

Evey Hwang, President

Customs Brokers & Forwarders Association of Northern California

From: Hani Rihani
Sent: Thursday, June 30, 2022 2:23 PM
To: BCDC PublicComment
Subject: SUBJECT: 6/30/2020: Item 8

My comment towards Howard Terminal.

Please vote yes to approve the removal of the designation of the port.
The port is too old to be used, it's just a glorified parking lot at the moment.

The port will also sink due to high rising waters and will no longer be usable in a couple of years.

With the designation removed, Howard Terminal will receive a remodel that is much needed, raising the terminal above water levels.

You have to also remember that the A's have 800-1000 employees of Oakland and surrounding cities. Rejecting the removal will have the A's moving to a different City/State, rendering all these employees as unemployed.

This is the best Use Case of the Howard Terminal.

Hani Rihani

From: Michael Sinatra
Sent: Thursday, June 30, 2022 2:30 PM
To: BCDC PublicComment
Subject: Support for A's Ballpark at Howard Terminal

I am a resident of the Jack London/Produce & Waterfront district, and I
support the Ballpark and Housing project at Howard Terminal.

The Port of Oakland has yet to provide a convincing argument as to why we need to keep a parking lot for rusty containers at Howard Terminal.

This parcel hasn't been actually used as an actual shipping terminal for years, and it is imperative that we put it to better use.

I am supportive of having an active and vibrant shipping port in Oakland, and in my neighborhood. However, the Port simply needs to be a better neighbor. The Port and various shipping interests have gotten away for too long with the line "trust us, we're so important for the Bay Area that you need to give us a blank check." I am tired of this attitude, and I am also tired of:

- the terrible air quality we have to deal with in West Oakland, Lower Bottoms, Jack London, etc.--from ships running generators, trucks, etc.

- horrible road conditions around the port (literal cravasses on 7th Street) that are due to the heavy traffic--generated by the Port--on our neighborhood roads

- Terrible access to the Bay waterfront. Sure, there's Middle Harbor and 7th Street parks, but how do you get there as a pedestrian? The Port hasn't even seen fit to put sidewalks in on Adeline street, and the aforementioned road conditions make a trip to the parks a miserable experience.

If the Port wants support for its moneymaking ventures, then it needs to learn to be a better neighbor--and a partner with the city in making the waterfront neighborhoods more livable *and* workable. Since it has been so reluctant to do so, its "trust us" argument about why we're better off with a decaying, obsolete shipping terminal rings hollow.

Michael Sinatra
Oakland